# A REVIEW OF THE CASE,

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# THE PEOPLE AGT. REV. HENRY BUDGE,

INDICTED FOR THE MURDER OF HIS WIFE

# PRISCILLA BUDGE,

(Tried at the Oneida, New York, Circuit Court, in August and September, 1861,)

CONTAINING AN EXAMINATION OF THE MEDICO-LEGAL QUESTIONS INVOLVED IN THE CASE; A REVIEW OF THE POSITIONS TAKEN BY THE MEDICAL WITNESSES FOR THE DEFENCE; AN EXTENDED DISCUSSION OF THE POSITIONS ASSUMED BY THE MEDICAL WITNESSES FOR THE PROSECUTION, WITH CUTS, AND TABLES FOR ILLUSTRATION; LETTERS AND OPINIONS FROM VARIOUS EMINENT AMERICAN AND FOREIGN MEDICAL JURISTS; TOGETHER WITH COPIOUS ABSTRACTS FROM THE EVIDENCE ADDUCED, AND THE JUDGE'S CHARGE IN THE CIVIL ACTION OF

## HENRY BUDGE AGT. CALEB LYON, FOR LIBEL,

Tried at the Herkimer Circuit in October and November, 1861.



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ALBANY:
C. VAN BENTHUYSEN, PRINTER.
1862.

READ BEFORE THE

MEDICAL SOCIETY OF THE STATE OF NEW YORK,

AT ITS ANNUAL MEETING,

February 5, 1862.

# REVIEW.

On Sunday morning, December 11, 1859, Mrs. Priscilla Budge, wife of the Rev. Henry Budge, of Lyons Falls (Greig), Lewis county, was found dead in her bed, with her throat cut, extensively. A coroner's inquest was held, the same day; there was no post-mortem, and the proceedings were similar to those usually had in an ordinary and readily explained case of sudden death. The doctor merely cleansed, stuffed, and sewed up the wound, and the verdict of the jury was, "*Death by suicide.*"

Suspicious circumstances, moral and physical, subsequently induced a disinterment of the body, four months afterwards, and a thorough examination of all the facts.

The first inquest occupied but part of one day—the second, several days. On the second inquest, upon the facts developed, a verdict of murder against the husband was rendered. Upon this, the prisoner demanded and secured an examination before the coroner. After a prolonged hearing, during which I was on the stand for twenty-two consecutive hours, the prisoner bringing forward no witnessess, he was committed for the action of the grand jury, on the charge of *murder.*

Subsequently a writ of *habeas corpus* was issued by Judge Bacon, of Utica, and on argument thereon, he was discharged from arrest, on the ground of the alleged illegality of the *second inquest*, without any reference to the merits of the case, before the coroner.

The latter part of May, and fore part of June, about one month subsequent to the above, the matter was brought before the grand jury of Lewis county. Judge Morgan, of Syracuse, specially charged the jury on this case, instructing them to examine thoroughly into it, and to take testimony of all persons who knew anything of the facts, *pro* and *con*, especially the medical men, &c. The result was that after the examination of witnesses, among them, Dr. Olmstead, the family physician, and strong personal friend of the prisoner, and the first and only physician who saw the body of the deceased, and of myself, on the part of the people, while on the part of the defence, Drs. Thomas, Coventry and Hogeboom, of Utica, and two or three of the local physicians, *eleven* of the jury were in favor of indicting Mr. Budge. Several witnesses, who had been subpœnaed, did not reach court until the jury closed the case, and adjourned.

Some time in September, 1860, the case was again brought before the grand jury of Lewis county. Judge Turner, also charged the jury to hear testimony in this case, *pro* and *con.* On the part of the people, as witnesses, were the venerable Dr. James McNaughton, of Albany, Dr. C. H. Porter, and myself, and Dr. Olmstead, of Leyden. On the part of the defence, Drs. Clark, of New York, Coventry, Hogeboom, and others. The jury after a prolonged hearing, indicted the Rev. Henry Budge for the *murder* of his wife, Mrs. Priscilla Budge.

Judge Morgan, of Syracuse, subsequently released the prisoner, on *ten thousand dollars* bail.

In August and September, 1861, he was tried at Rome, Oneida county, Judge Allen presiding. After a trial of many days, in which *no* medical witnesses were called for the defence, and in which surgeons Mott, of New York, J. McNaughton, of Albany, and myself, on the part of the people, were subjected to lengthy and searching examinations and cross-examinations, the trial was suddenly brought to a close by the interposition of the court, which stopped one of the surgical witnesses from explaining in detail the action of the heart and lungs after the cutting of the pneumo-gastric nerves. The case went to the jury, *pro forma* merely, and the prisoner was acquitted on the direction of the judge.

In relation to the sudden termination of this case I quote from the Albany *Times and Courier*:

### A Review of the Budge Case.

"We publish to-day some of the evidence taken in the Budge murder trial, and also the views of the Rome *Sentinel* on the subject. It will be remembered that the examination of the body of Mrs. Budge was made four months after her death by Drs. Swinburne and Porter, of this city. They (from the testimony taken before the coroner as to the condition of the body, bed, instrument, &c., when collated with the dissection post mortem,) gave it as their opinion that Mrs. Budge came to her death by other means than her own hands. The medical facts of the case were submitted to Prof. Taylor, of Guy's Hospital, (author of Taylor on Poisons, and Taylor's Medical Jurisprudence,) who gave his opinion, as published previously in this paper. The facts as they appeared before the coroner (acting as justice), were laid before most of the eminent medical men of New York and this city, as well as several foreign medical jurists, and their opinion coincided with Drs. Porter and Swinburne.

"The testimony taken at the trial was essentially the same as that before the coroner. The venerable Drs. Mott and McNaughton sustaining Dr. Swinburne, whose examination continued most of three days.

* * * * * *

"In this connection we give the material testimony of Dr. Mott, as reported in the Rome *Sentinel*, Sept. * * *

"'This morning Dr. Valentine Mott, the eminent New York surgeon, was placed on the stand. He testified that he had been 56 years in practice, and had many cases by throat cutting. By far the greater number of suicides by throat cutting were too high up—that is, above Adam's apple. The flow of blood from a suicidal wound of this kind would be tremendous; the flow would be very great and extending very far. In the case of a person lying down with head imbedded in the pillows, not only the hand inflicting the blow would be very bloody, but there would be a great display of blood about the face and every part of the front of the person. The blood would fly in all directions, and if the walls of the room were in reasonable distance, it would hit them. The face and upper part of the neck would be very bloody, and there would be a full display of blood on the headboard and wall. The right hand, forearm and razor would certainly be very bloody.'

"Dr. Mott's cross-examination elicited a point to which his attention had not been called of late years, and which was of vital importance to this case. In olden times it was thought that the cutting of the pneumo-gastric nerves would result in immediate death. Modern physiology shows this to be a fallacy, and that death only follows after days, while it does not interfere with the full and free circulation and active contractions of the heart, which continue until the body is emptied of blood. This is the case in cutting all the nerves and vessels of animals slaughtered, and in decapitations of criminals.

"Dr. Mott, by acknowledging this point, had also to admit that the lungs must be congested as a sequel of the heart's paralysis. Taking this theory of the case, it would account for the comparative bloodless condition of the bed, and the bloody cerum found in the pleural cavities. This fluid is not found in the cavities of animals bled to death. This did not account for the bloody finger marks on the face and right hand pillow, which were supposed to be made by a hand not materially bloody. If Mrs. Budge died instantly upon cutting the nerves, how came the tongue bitten laterally, and the bloody finger marks on the face and pillow? Of course the hand is paralyzed as well as the heart. How came her head pressed firmly backwards in the pillow, and the spot of blood on the sheet below, 12 or 14 inches square, which seemed saturated with blood."

The following is from the Rome Sentinel, Sept. * * *

Judge Allen—Then I would submit to you whether, after the diligent investigation we have already given to the case, you deem it best still to press for a conviction. Certainly this was a case fit for a jury to investigate. As it first presented itself to those in the neighborhood, it was a case of strong suspicion,

difficult to explain, from the position and surroundings of the body; the character and extent of the wound, (such a wound as Dr, McNaughton would not believe could be made by the person herself, were it not for the cases in the books;) the account given of the blood, as reported by those who were not accustomed to see such appearances, and who were not observing them for future statement and to be reported. These things, and the appearances found at the post-mortem examination, all tended to throw strong suspicion on the prisoner, and made out a case calling for judicial investigation. But from time to time during the trial qualifying circumstances have been proved tending to show how the blood might have appeared as it did, how it might have got into the lungs without asphyxia; and a new element has been brought into this case this morning in relation to the par vagum nerves, the effect of their destruction on the action of the heart, and the appearance of the lung after death. Now it is not for me to say that the case shall close. There are circumstances that might be urged forcibly to the jury; but it strikes me that as the case stands it is only a balance of probabilities, in which it would be unsafe to convict. It was a proper case for investigation. It was due to the prisoner as much as to the public that it should be investigated. I have been very loth to interfere—but I think the case has taken much time, and if it continues, much more time probably will be taken. Counsel will appreciate the reasons which prompt me to make this suggestion.

## The Murder Trials.

Two persons—one an educated and reverend minister—the other a dissipated low-lived individual—have been tried for their lives during the past few days in this village, and in neither case has there been a satisfactory arrival at the ends of justice. We are not complaining of the verdicts which were rendered—for under the circumstances the respective juries could not have decided otherwise than they did. We do not complain of the relieving of the accused parties from the imminent peril in which they stood. But we do complain, and that very earnestly, that after the counties of Lewis and Oneida have been put to an enormous expense for the prosecution of these parties, and for the vindication of the right of the deceased persons to have a strict inquiry made into the causes of their death, the public are still left without satisfactory and final knowledge as to how and by what means Mrs. Priscilla Budge and Lucinda McGinnis severally came to their death. In the Budge case in spite of the astounding inventions to that effect propagated in the Utica papers of Friday, we are constrained to aver that no certain theory of the cause and circumstances of death has been arrived at. Judge Allen—whose dignified demeanor and profound familiarity with the science and practice of law, especially qua ified

him to preside at a trial where men of the most eminent professional talent in this part of the State were arrayed opposite each other for and against the prisoner—used no such decisive and satisfactory language in regard to the reason for acquitting the prisoner, as that which the Utica papers presumed to put into his mouth. Instead of expressing his conviction that it had been clearly proved that the death of Mrs. Priscilla Budge was a case of suicide, Judge Allen said, as we elsewhere literally report him, that the case as it stood was one, though of "strong suspicion," yet so modified by "qualifying circumstances" that it became a mere "balance of probabilities" as to whether Mrs. Budge died by her own hands or by those of some murderer. Of course, neither Mr. Budge nor anybody else should be convicted by the weighing of "probabilities." It is only "certainties" that justify conviction; and in this case there was and is no certainty in the evidence, taken as a whole, and therefore Mr. Budge very properly received the benefit of the doubt and was acquitted.

So in the McGinnis case. There is no more definite conclusion arrived at by the acquittal of George, than by that of Mr. Budge. It is a mere "balance of probabilities" whether Mrs. Budge killed herself.

* * * * * * * * * *

Now, there is something unsatisfactory and that demands remedy in this. When a member of society dies, whether it be a lady occupying an estimable position in society like Mrs. Budge, or a poor girl like McGinnis, the community is entitled to know "how and by what means the deceased came to her death." It is for this the public pay coroners to hold inquests; it is for this that doctors are paid for holding post mortem examinations; it is for this district attorneys are elected and courts held. The public safety means the safety of individual members of society. When Mrs. Budge and Miss McGinnis die unnatural deaths, and the public find that forever henceforth the causes of those deaths are left in doubt, and the mystery unsolved, there is room for complaint. It becomes the duty of the press in such cases to inquire whose fault it is, that with all the cost that has been incurred, with all the machinery which is maintained at the public expense for the purpose of finding out how deaths are caused; we are yet left with nothing better than speculations and probabilities in regard to the causes of these two deaths.

Now whose is the fault? The judges tried these causes with careful impartiality and abundant legal erudition. The juries patiently endured their monotonous task. The counsel displayed acumen, industry, and an interest amounting almost to enthusiasm. Whose fault then is it that no more definite result was arrived at?

* * * * * * * * * *

And those who heard the evidence in the Budge case throughout, can easily see that the weak point of that case lay at the same spot. The village doctor who was first called in to see the dead body of Mrs. Budge, did not seem to dream that a woman's head could be half cut off by anybody but herself. He actually did not suppose that the coroner would need him as a witness; much less that a judicial investigation might subsequently need his evidence. Instead of taking out his note-book and carefully recording on the spot every atom of fact in regard to the spots of blood, the quantity, the position of the body, of the marks of blood and everything else which could throw a light upon the circumstances of the cutting, this doctor seems to have contented himself with poking cotton-batting into the wound and sewing it up.

It is to be hoped that these two cases will be a lesson to gentlemen of the medical profession, when they are called in to see a body which has evidently come to its death by other than ordinary means. When there is a body found in the water, the public are entitled to something more definite than speculations as to whether the body fell in, or jumped in, or was pushed in. When a body is found with its head half cut off, the public are entitled to something more than a "balance of probabilities," as to whether her own or somebody else's right hand gave the fatal cut. The needed certainty can be had, in the present state of medical science, in ninety-nine cases out of a hundred. Does any one suppose that if Valentine Mott had been first called to the bedroom of Mrs. Budge there would now be more than one opinion as to whether the death was a suicide or homicide? Or that if Dr. Mott had made the post mortem on the body of the McGinnis girl there would have been room for argument as to whether she was drowned or strangled?

It may be said that at the best the opinions that medical men can give in such cases are only theoretical and circumstantial. But it must be remembered that in a case of murder no evidence but circumstantial can be expected. A murderer does not commit his crime in the presence of third parties. There can be no possible conviction in such cases except on circumstantial evidence; and such evidence, clear and irrefutable, can be given on the point of whether the death was by murder or not, in nineteen cases out of twenty, by any medical examiner who understands his business and pays the proper amount of attention to his duty."

A not unimportant fact connected with this case, is the result of the libel suit brought by the Rev. Mr. Budge against Hon. Caleb Lyon, of Lyonsdale. The latter, it was alleged, had in some verses charged Mr. Budge with the murder of his wife, and other gross offences. In the suit, damages were laid, I think, at $20,000. Mr. Lyon set up justification as his defence, as to the charge of murder, and no justification as to the other offences.

Last October and November, the case was tried at Herkimer, Judge Mullen presiding. Eminent counsel were arrayed on either side. As witnesses for Mr. Budge, appeared Drs. Clark, of New York, Coventry, Hogeboom and Thomas, of Utica, Olmstead (the family physician), of Leyden, and on the part of the defence was Prof. Porter and myself. The trial lasted about three weeks. The fact of publishing the alleged libel was clearly proven, and not controverted. No defence to a portion of the alleged libelous publication was ever set up in the answer, or on the trial. The justification related only to the part charging murder.

After three weeks of careful and patient investigation the trial was concluded by the jury rendering a verdict of *one hundred dollars* for the plaintiff, the damages claimed being, as I have before stated, *twenty thousand dollars!* Inasmuch as this slander trial contains the full defence, as well as the prosecution of the murder trial, and *vice versa* the *slander* case, I will make a synopsis from this reported testimony, as containing the whole case, of which the following is the title:

HENRY BUDGE,
*ag't*
CALEB LYON.

In this cause, the following is a brief portion of the medical testimony:

Mrs. Budge, aged about 40, weight about 96 pounds—spare habit of body, but enjoying ordinary health and spirits, was found *dead* and cold in her bed, with her throat cut extensively; and from the circumstances attending the death, the *entire* absence of the *physical* appearances of death from cutting of carotids during *life*, the absence of "*spirts*" and *spatters* of blood, *position* of the *body* and *surroundings*, the moral circumstances also of unhappy relations having existed between her and her husband for some time, induced an examination in *form*, and from this cursory examination, nothing was elicited, (except the testimony of the husband,) which threw any light on the subject. This examination was really a form, and nothing else. *Four months* after this, I, in conjunction with Prof. Porter, and several of the local physicians, made a careful dissection of the body. It had been buried in a grave of *sandy loam*, about four feet deep, which was as thoroughly cold as a northern winter could make it. The body was entirely cold at its burial—the ground frozen for three feet, and chilled to the *freezing* point, much lower, so that there could be no decomposition going on. It remained in this condition until the dissection, four months after burial, which revealed the following condition:

## Synopsis of the Dissection, Post-Mortem.

An extensive cut was found on the neck, having the following *Position.*—On the right side $3\frac{1}{2}$ inches below the lobe of ear —on the left side, about $3\frac{1}{4}$ inches below lobe of ear—$4\frac{1}{4}$ inches below centre of chin on medium curved line severing cricoid cartilage, œsophagus, arteries, veins, pneumo-gastric nerves, and all the muscles of the anterior part of the neck. Circumference of neck above, or at the wound, twelve inches—curved length of cut $5\frac{1}{2}$ inches. Depth of cut in a direct line, 2 inches back to the vertebræ, cutting through the periostium, and into the osseous matter of the fifth vertebræ, and also shaving off a lateral portion of the transverse process of this vertebra.

Skin on the right side cut down $\frac{1}{2}$ to $\frac{3}{4}$ inch lower than tissue. Tissue on the left side cut deeper than skin by about $\frac{1}{2}$ to $\frac{3}{4}$ inch, and extending down into the muscles external to the vertebræ, so that the skin at the termination of the cut on the left side appeared as if stretched and rounded instead of being sharp, or angular. Trachea and tissues retracted, so that the wound gaped about two inches. *Tongue*—There was distinct ecchymosis on each side, at points opposite the molar teeth. On the left side, this covered a surface of one *inch* in length, and $\frac{1}{2}$ inch in a lateral direction. On the right, $1\frac{1}{2}$ inches in length. On the upper and wider part, near the base $\frac{7}{8}$ of an inch, and diminishing towards the anterior portion, where it was $\frac{1}{2}$ an inch, and extending through the mass of the tongue, and visible from either side, as was demonstrated by making incisions through its substance, and subsequently soaking it in water. The tip of the tongue was somewhat discolored but not ecchymosed. The œsophagus for the space of about two inches near and below the root of the tongue was of an abnormally red, or maroon color.

Right lung congested and engorged with blood, and apoplectic —pleuritic adhesion slight—otherwise healthy. Heart entirely sound in every particular. *Chest*—bloody serum in both cavities of chest—on the left side full 5 oz.,—on the right side, full 8 oz.

Right lung—weight 9 oz—specific gravity, .819.
do small congested portion of this lung, .885.
do apoplectic, .922.

Right lung, weight with fluid 17 oz.—specific gravity with fluid, .904.

Fluid in right cavity thick, and of the consistence of blood.

Left lung—weight $7\frac{1}{2}$ to 8 oz.,—specific gravity, .692.
do weight with fluid $12\frac{1}{2}$ to 13 oz.

The heart, and large vessels were empty, while the capillaries of the extremities and dependent portion of the body were full of blood, and all the muscles retained their juicy and florid appearance. The right lung continued to discharge bloody serum, while the microscope distinctly revealed the presence of

*diffused* aud *circumscribed apoplexy*, as well as engorgement of its tissues. The left lung, when placed in a jar of fluid presented a large amount of débris of broken-down blood in the dependent portion, while the fluid was very much discolored.

Brain examined—no appearance of any disease. All the other organs examined and found healthy and free from congestion. Stomach and organs removed for chemical examination.

From the testimony taken at this inquest the following extracts are made:

The room was about eight by ten feet, and about eight feet high, and contained a bed, (French cottage,) washstand and chair—there was a space in front of the bed of about three feet, and the same at the foot. This bed was composed of a straw and feather-tick, two sheets, two French pillows and covers; also two coverlids and quilts. The long axis of the bed corresponded with the long axis of the room, and hence the space at the side, and foot of the bed, and none at the head or back side. The bed-clothes were undisturbed, and carefully tucked in at the sides and foot, as if she were asleep, as one witness says, "looking from the foot of the bed she appears as if asleep," with the eyes and mouth closed firmly. The *coverlids* were carefully turned down on the left side to about the left breast, while on the right they were turned down about twelve inches farther, and smoothly, as if done with care. The blood flowed from the wound in the direction of its gravity *i. e.*, directly down behind the neck, back, and head, extending laterally on the right from the neck from two to four inches, and on the left, one to two inches—running up, under the back of the head, and down under the right hip, and making an irregular stain on the sheet of about twenty by twenty-seven inches. The width of the blood-stain where the neck and head lay, could not exceed nine inches in width. The back of the right shoulder and arm lay in the blood, and hence were bloody! On the left side there was little blood.

At the examination before the coroner, the family physician remembered of having seen blood (in spots, and not as if soaked in blood) on the anterior part of the sleeve of the night dress, near the wrist, and not on any other part. The lady who washed the body, as well as the coroner, and nearly all the other witnesses, say there was little if any, (and that more like a stain,) unless such as was produced from coming in contact with the blood in the bed.

There was at most, a mass of bloody feathers in the feather-bed, matted together, equal to about a quart mug full; the remainder were not soiled, nor were there any adhering to the feather-tick. In the pillow on which the head lay, the amount of blood was evidently small. Taking *this* and *other* data, as a guide, there could not have been more than about one to two pounds of blood lost. There were no *spirts* or *spatters* of blood in *any* direction, and there was no blood on the anterior part of the

*body*, *night dress*, or *body clothing*, below the cut, nor was there any on the face and neck, above the cut, except a slight stain of blood on the under side of the chin, as if some bloody thing had been wiped against it, and the *bloody finger marks* hereafter referred to, on the face; no blood stains on *headboard*, *pillows*, *bedstead*, *clothes*, *walls*, or *otherwise*, except as above described.

The family physician discovered a few (6 or 8) spatters of blood on the face, (in addition to the finger marks) as large as a *pin's head*, while no one else sworn on the inquest or before the magistrate, saw them, not even the lady who washed her.* He says on his first examination: "I discovered no spatters upon the bed clothing, nor nowhere else, except on the face; discovered blood on the pillow, under the neck, and can't say that the blood extended two inches on either side of the neck; besides the spot of blood on the upper sheet of 6 to 8 inches one way, and 10 to 12 the other, discovered no other blood on the upper clothing, etc." At his first examination he discovered exactly what the other witnesses did, except the spatters on the face. On his second examination, he says, in substance: "The bed clothes were turned down across her chest, 8 or 10 inches below the chin, lower on the right side than on the left, folded smooth on the left side. She lay on her back, a little inclined to the right, body nearly straight, head on left pillow, inclined back, and to the right, left hand on left breast, palm down, fingers partly flexed, right hand and arm lay to the right, palm up, and looking towards the body. A razor was lying under the arm, nearer the wrist than elbow, two-thirds open, the blade uncovered, edge lying towards her, two-thirds of the edge in length, and one-third in depth, i. e. two-ninths of the razor blade was bloody. The inside of the fingers of the right hand were stained with blood; noticed no blood between the fingers; no blood on the upper bed clothing, (except the spot on the upper sheet,) blood on the right cheek and chin, as though something bloody had touched them; they were only slight stains, and some spatters of the size a half drop of blood would make, in striking on a surface; some not larger than a pin's head. Of these there may have been a dozen; discovered none of these sprinkles on the left side of the face. The blood extended on the right side from the neck on the pillow, perhaps two inches, on the left, perhaps an inch. The blood flowed back from the wound, into the clothing, back of her neck and head, and down under her, which ran by gravitation up as far as the ear and as far below the wound as I could see without raising her. There was more blood on the right side than on the left of the wound; no blood on the wrist of the right arm. The sleeve of this arm, from 4 to 6 inches, was besprinkled with blood, but not entirely covered, as though soaked most near the

*These were not seen by Mr. Shepherd, who first saw the body, and hence I would suppose that these might have been sprinkled on by Dr. Olmstead while washing and cleaning the wound.

PLATE No. 1.

*This Plate represents the described Position in which Mrs Budge was found, also the extent and character of the Wound in the Neck.— The Position of the Stains of Blood about Bed and Body.*


1. Bed.
2. Wash Stand.
3. Tumbler.
4. Candle in Candlestick.
5.5. Stains from a bloody Hand.
6. Spots of Blood on the Sheet 10 by 14 Inches.
7.7. Stains of Blood on inside of Fingers and Edge of Razor.
8. Carotids, Jugulars and Par Vagune.
9. Wind Pipe.
10. Indentation in tissue below line of anterior Face of Vertibrae.
11. Wound in anterior Face of Vertibrae.

Lith. of Van Benthuysen Albany, N.Y.

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wrist. There was a spot of blood 5 or 6 by 12 inches on the sheet in front of her, which was soaked; no sprinkles or spatters about it; I attempted to stanch and suppress the blood in the cut before putting the cotton bat, as far as I could. There was much blood runnig into the wound; there might have been from 3 to 6 ounces; I put in cotton batting and the blood continued to ooze out of the wound, as I sewed it up, so as to be bloody in front." Otherwise there was no variation. I have taken the points in the statement contained in this article, from my dissection of the body, and the following witnesses sworn, all on the slander suit, and most of them on previous occasions, involving the same data:

1st. *Thomas Rogers*, the coroner, examined the body carefully.

2d. *Joshua Shepard*, an intimate friend and neighbor, whom Mr. B. first sent for, and hence was the first who saw the body and before it was disturbed.

3d. *Hon. Francis Seger*, a warm personal friend and attendant on his church, acted as clerk on the first inquest.

4th. *Laura E. Seger*, wife of Hon. Francis Seger. Mrs. S. washed the hands and assisted in laying out the body, was one of Mr. B's parishioners, and a warm personal friend of Rev. Mr. B. and family.

5th. *Ann Murphy*, one of the employees in the house of Mr. B. and who helped to empty the feather tick.

6th. *Jesse T. Gould*, who I think was living on very friendly terms with B. and family.

7th. *James Springstein*, a neighbor, who I presume was also on friendly terms with them.

8th. *Helen Shepard*, a neighbor, and also living on friendly terms.

9th. *Isaac Shill*, also a neighbor, living on friendly terms.

The whole of this testimony is entirely in accordance with that of the physician who was a witness for the other side (prosecution) at his last examination.

The following are the witnesses sworn for the other side (prosecution), to shew the condition of bed, body and surroundings:

1st. *William J. Olmstead*, M. D., (the only physician who saw the body at the time of death), the family physician and a warm personal friend of Mr. Budge, a transcript of whose testimony I have quoted from three different and distinct examinations.

2d. *Ellen M. Harris.*

3d. *Elmira Dowd*, who assisted to empty feather bed; found stain on upper part of tick "2 or 2½ feet long and not quite 2 feet broad;" a stain on the other side of it of 4 to 5 inches long and 3 wide, i. e. "about as large as my hand;" found bloody feathers, a bunch as large as a quart measure.

4th. *Walter Whittlesey*, a neighbor and personal friend of Mr. Budge.

5th. *Caroline Higby*, a neighbor.

6th. *Matilda Gould*, do

7th. *Wilson Higby*, do

8th. *Pamelia Ride*, do

Although the second, fourth, sixth, seventh and eighth witness stated something different from all the others as to the points at which the blood was found; still the fact that this blood could not have been thrown there by the action of the heart, and the amount lost is not changed (not exceeding two pounds); and also that no two of these witnesses agree entirely, while the description of them is so vague and indefinite as to be of no practical value. It is essentially from the statements of these six witnesses that Dr. Clark framed his statement, recently published in the American Medical Times, on this same case—ignoring essentially the statement of the physician and of the other highly respectable witnesses. I will therefore refer the reader to the paper read before the Academy of Medicine on the memorable evening of the 18th December, 1861, and published in the Bulletin of the Academy, and distributed ad libitum to the members of the State Medical Society at its last session,* when it was known that this paper was to be read—that their opinions might be biased or forestalled by this statement.

The attention with which this paper was listened to by all, attests their appreciation of its merits and truthfulness. Still the pregnant fact that the wound on the neck leaked from 3 to 6 ounces of fluid blood during its cleansing, so that it had to be *stuffed* with cotton bat, *sewed up*, *compress* and *bandaged* to keep it from bleeding, and still it continued to ooze blood by the side of the compress, is significant.

Four months after this, when the dissection was made, the cotton bat when removed was saturated with blood, and the parts under the neck were also wet with blood.

The night-dress was open so as to fully expose the neck and chest below the collar bone—the razor was found nearly open, and partly under the right fore-arm—about mid-way from the wrist to the elbow, and was only *slightly stained* (about $\frac{2}{9}$ of the blade), and that on the edge and not on its back—the handle had a little blood on it. The (soaked) spot of blood (6 by 12 inches) was on the upper sheet, in front of the body, saturated, rumpled and crushed up, as if it had been crowded into wound in the neck; still it had not stained the night-dress or bed-clothes with which it came in contact, (evidencing that it was placed there when nearly dry). Besides this, there were the prints of what appeared like bloody fingers on the face, and also on the lower left hand corner of the right hand pillow, and also as witness described, on the upper and middle portion of the same pillow, as if clutched with a *bloody hand.*

On the second row of the palmar phalanges of the right hand "*a slight streak of blood*"—none between the fingers or any other portion of this hand. The lady who washed the body as

* For an embodiment of the statement of these witnesses, see Statement of Doctor Clark, as presented to the Academy of Medicine, which will be found in connection with the testimony of Doctor Olmstead.

well as hands, said it was so slight that it scarcely soiled the wet white cloth with which it was wiped and cleaned—it appeared as if wiped against some bloody object. No blood on the dorsal surface. The *left hand* had *no blood* upon it. The straw tick, on which the feather bed lay, was not soiled with blood, nor were the boards to which it was subsequently removed, showing that the under side of the feather tick was not bloody.

The body lay with its left side to the front of the bed, on its back, a little inclined to the right—head a little more turned to the right, and deeply imbedded in the pillow, so that it came well up by the side of the ears. *Chin elevated*, so that the crown of the head was well back on the pillow, and about on a level with the back of the body. This was the exact position in which the cutting was done. *Reason*—if the head had been flexed, the cut in the larynx would have corresponded to the center of the seventh instead of the fifth cervical vertebræ—hence, on the theory of suicide, she must have gone through all the gyrations, and then placed the head where it was at the time of the cutting. I incline to the position that the head was *in statu quo* when cut, and remained in that condition until seen by the witness. The right hand was about twelve to eighteen inches from the body, and resting on the back and elbow—*fingers* slightly flexed—*left hand* resting on the left breast, and partly flexed, palm looking upward and backwards. *Right leg* nearly straight—*left leg semi-flexed* at the knee. *Face* entirely composed, as if asleep, (as expressed by witnesses), eyes and mouth firmly closed—bed undisturbed.

The *character* of the *cut* is important. It would appear as if it had been done by one stroke of some strong instrument, and still the cut on the left side is remarkable (if done with a razor) from its dividing, suddenly, all the tissues behind, or deeper than the skin, by ½ inch—shaving off a portion of the left transverse process—cutting through mastoid, rectus, anticus, portions of the scalenus muscle, &c., then, suddenly rising, over the vertebræ, cutting through its periostium, and into its osseous tissue, and finally finishing on the right side, by cutting the skin ⅜ to ½ an inch further than the tissues wounded, and extending as far back as on the left side, cutting all the parts anterior to the spine, except a small posterior fragment of the mastoid muscle of the right side.

This wound would seem to have been made at one stroke, and if so, on the theory of suicide, the razor would have to be forced abruptly into the left side of the neck, between the processes, and behind the skin, cutting off the fragment of the transverse process, and carried with great force across the neck, cutting into the osseous tissue of the body of the vertebræ, and the incission finished with great deliberation, to make the cut in the skin extend beyond the wounded tissue.

On the supposition of suicide, the termination of this cut

would seem more like the commencement of a surgical incision, where the proper precaution was not exercised—as to holding the instrument perpendicularly and plunging it in before commencing the incision; the skin on the left, at the angle of the cut, seemed stretched and wounded, probably from the cutting of the muscular fibre behind it, and from the forcible inclination of the head backwards and to the right.

Now upon this statement of the condition of the body, body-clothing, bed and bedding, conditions of the room, *locus in quo* of the body, the almost bloodless condition of the surroundings, the *entire* absence of "spirts and spatters" of blood, the positive evidence, as to *all* of the blood having been spilled by gravitation, the stains of blood, from a bloody hand, when hers were not bloody in a position where it could be wiped off, on adjoining objects, the entire absence of a condition indicative of convulsions in the bed, undisturbed body clothing, a condition which always accompanies death by hemorrhage, either in the sitting, or recumbent position. The entire absence of blood anteriorly on the neck, or in the direction of the long axis of the arteries; also the same on the anterior part of the body and night-dress, the continuous bleeding of fluid blood from the wound, 22 hours after death, and of its continuance, notwithstanding its being stuffed with cotton batting, sewed up, compressed and bandaged, instead of the wound being dry, and all the blood about the clothes as it would necessarily be, in death from hemorrhage—the position of the head, when found, chin elevated, so as to stretch the muscles, and turned to the right being in the same position as it was when the cutting was done—the small amount of blood lost (not exceeding a quart) as evidenced in the bed and surroundings—the almost bloodless condition of the hands and wrists—the saturated, or "soaked" spot of blood, 6 by 14 inches, on the upper sheet in front, while the clothing with which it was in contact was unsoiled—the almost bloodless condition of the razor, and its position under the fore-arm—the character and extent of the cut, involving, as it did, the bone, and last but not least, the condition of the lungs at the time of death weighing respectively 12½ and 17 ounces, and probably much more, and leaving portions of the superior part of right lung apoplectic, while the adjacent parts were congested, instead of which, they should have weighed (on the supposition of death by hemorrhage) $4\frac{50}{100}$ and $5\frac{50}{100}$ ounces, respectively, and there should not have been the flow of fluid blood described, from the cut, 22 hours after, nor should there have been any effusions in the cavity of the *pleura.*

The chewed tongue is also important, as indicative of convulsive action. This would be inconsistent with the convulsions after throat cutting, and hemorrage, because—1st. Animals do not chew their tongues when slaughtered; 2d. The convulsive movements are always present in the extremities, and last from

four to five minutes. If she had convulsion of the jaws, she also should have had them in the extremities, and hence the bed must of necessity be disturbed.

Now, taking all these points into consideration, we stated as our opinion, *that Mrs. Budge* was *dead* or *nearly so*, when the *cutting was done*; and *hence*, there was (little bleeding and that in the direction of its gravity), and hence, no movement of the muscles after the cutting was done. This would account—1st, for the head remaining in the same position as when the throat was cut, and the entire absence of "*sprinkles* and *spatters*" of blood, and the absence of evidence of the *per saltum* force to the circulation—the small amount of blood lost—the blood flowing profusely, some time after death—the condition of the right lung—the positive fluid character of the blood—the absence of positive evidence of clots of blood; 2d, *the cutting was done while lying*—is evidenced by the absence of blood on the fore part of the body, and night clothes, showing that it could not have been done in the *sitting* position. The blood simply flowing where *gravitation* would lead it and that this blood was found chiefly behind, and to the right of the body renders it almost *absolutely* certain that the cutting was done in the *lying* posture. The greater amount of blood being found on the right side is also in favor of this view, and also that the body did not move after the cutting was done—so also the position of the head, being deeply imbedded in the pillow, *chin* elevated and *head forcibly* thrown back, also the smooth and well arranged condition of the bed clothes, where they were turned down in front of her, which could not have been, had she been in the *sitting* posture.

That after the *wound* was made in the neck, the sheet was stuffed into it, and so left until nearly dry; this would account for its not soiling the clothing with which it came in contact.

3d. I hold that the throat was not cut with the razor found under the forearm, from its nearly bloodless condition, from this cut being very extensive and involving the bone. The instrument would have been covered with blood, and its edge would probably be nicked.

The small amount of blood lost, as evidenced by the condition of the feather bed (not exceeding a quart), is also inconsistent with death from hemorrhage. A person of her habit of body, and weighing 96 pounds, would have not less than 15 to 20 pounds of blood in the body, two-thirds of which, or from 10 to 12 pounds would be lost in cutting like this—and hence the inconsistency.

4th. After her death the throat was cut to cover up the *crime of murder*. This could be effected with a strong instrument, in the hand of an assassin, while standing in front of the body or on the bed, in rear of the body, or sitting astride the body. The bed could even be moved out from the wall, and the assassin go

behind it, after which all things could be replaced as before the deed. In either position the *murderer* could *make just such a cut* as *this*, and *particularly* so if *standing* in *front*, with the left hand against the *chin*, the wound would of necessity be down to the right or up to the left (just as here found), while it would commence like any other surgical cut, with a tail; and if the instrument were carried across with force enough to cut through all the tissues, and into the *osseous* tissue of the vertebræ, it would be likely, when the resistance presented by the bony parts had ceased, to dive with force into the soft muscular tissue, and even into the processes of the spine, while the skin would give and stretch just as it was found to have done in this instance, so as to make the cut deeper in the tissue than the skin or vertebræ.

*Even on the theory of suicide*, the cutting must still have been done in the *lying position* for the reasons before detailed. Now, taking the position of the body, turned to the right, the position of the cut at right angles with the shoulder-joint, the arm would have to describe the segment of a circle, and at right angles with the body, while the fore-arm would necessarily have to be strongly flexed on the arm—also the hand on the fore-arm, in order to complete the cut. Even with all these accessories the cut could not be completed to the extent it was, before the arm would strike the bed. *The body resting on the muscles*, which would be employed in this act, destroys in a great measure their force or power; besides, no one ever cut their throat in the lying position.

*The commencement of this cut* is quite too *abrupt* for a *wound* made with the *blunt* point of a *razor*. The *extent* and *character* of the *tissue* cut is quite too *great* for one *stroke* of a *razor to complete*, and *that*, too, in a *position* where the *muscular power* is so *materially* impeded.

The position of the blood stains, and the direction taken by the blood when leaving the body, taking into consideration the position of the head (and a female at that), renders the idea of suicide quite preposterous, not to say ridiculous.

The substance of this statement was transmitted to the following eminent medical jurists, who examined the facts very carefully and transmitted me their views:

The first of whom is A. S. Taylor, M. D., F. R. S., Professor of Medical Jurisprudence in Guy's Hospital, London, and well-known author of Taylor on Poisons, and Taylor's Medical Jurisprudence.

2d. T. G. Geoghegan, M. D., Professor of Medical Jurisprudence, Royal College of Surgeons, Ireland.

3d. Charles A. Lee, M. D., of this State; formerly Professor of Medical Jurisprudence, &c., &c., editor of Guy's Forensic Medicine, &c., &c.

4th. S. D. Gross, M. D., Professor of Surgery, Jefferson Medical College, Philadelphia; formerly Professor of Medical Juris-

prudence in the medical department of Cincinnati College, and who in early life paid especial attention to the study of this important branch of medicine.

Although it is more in reference to the condition of the bed, body, and the surroundings as to blood, sheet, &c., his opinion as an eminent surgeon would be considered important and conclusive.

CHEMICAL LABORATORY GUY'S HOSPITAL, *June* 30, 1860.

DEAR SIR :—I have great pleasure in sending you my opinion of the case of Mrs. B., of G. Dr. Hendee left the MSS. and drawing at my house during my absence, so that I had an opportunity of reading it and writing out my views without having any communication with him. I can perceive that it is a case of great importance. It somewhat resembles that of Lord William Russell, murdered by Courvoisier, in London, in 1840, and the case which I have reported under the name of Harrington, in my Medical Jurisprudence, 6th ed., (English) p. 281.

I am, dear sir, yours faithfully,

ALFRED S. TAYLOR.

DR. SWINBURNE.

REPORT OF THE CASE OF MRS. B., OF G.

I have read a report of the case of Mrs. B., of G., who died December 10th, 1859. This report, with a drawing of position of deceased in bed, has been furnished to me by Dr. J. Swinburne, of Albany.

From these documents it appears to me :

1st. That the wound in the throat must have been inflicted while the deceased was lying on her back, i. e. in the recumbent posture. There was no blood on the anterior part of the neck below the cut, and there was no blood on the anterior part of the body or night dress. Considering the blood vessels divided by the wound in the neck, the fore part of the person and dress, if deceased were sitting up at the time of its infliction, could not have escaped receiving a considerable amount of blood.

The description of the flow of blood being chiefly on each side of the neck, is in accordance with the view that the wound was inflicted while deceased was on her back.

The head being deeply imbedded in the pillow is also in favor of this view, since had deceased sat up at the time of infliction, I do not believe that by any accidental fall such an imbedding of the head in the pillow could have taken place; and further, it is not conceivable that the head should have been thrown back as the result of an accidental fall.

2d. Taking the depth, extent and direction of this wound in the neck, it is not such a wound as a person *could inflict on* himself or herself *while lying on the back in a recumbent posture.*

The large blood vessels on back side of the neck were divided, assuming that a suicide might have power after dividing the carotids and juglars on one side, to carry a razor through the trachea and œsophagus as well as through the blood vessels on the other side.

I am decidedly of the opinion that there would not have been the power to shave off the left transverse process of the fifth cervical vertebra, or penetrate the osseous structure. In the recumbent posture such an act would require the exercise of a great muscular force at a very great disadvantage in the position of the right arm for using the required force.

Assuming that the incision was made from left to right, the fifth vertebra must have been implicated in the incision *before* the weapon was carried to the right side at all, and yet it is stated that in the right side of the neck there was a cut in the *skin* one-quarter of an inch further than the tissues wounded.

This fact proves to my mind a deliberate withdrawal of the weapon, quite inconsistent with the fact that the blood vessels on both sides of the neck had been divided, and the periostium and osseous structure of the fifth cervical vertebra had been cut or penetrated.

3d. On the hypothesis of suicide a wound of this extent and depth must have been inflicted with tremendous force and with great rapidity. There must have been a sudden and copious loss of blood from the divided blood vessels of the two sides of the neck.

How came the right hand to be in a position by the side of the body only slightly bent, the weapon not grasped within it, but lying on the bed six or eight inches from the wrist? No muscular power would, in my judgment, have remained to enable the deceased to have placed her arm in this position after the infliction of such a wound in the recumbent posture; and there is no conceivable accident by which it could have assumed this posture, unless the body had been interfered with before it was seen by the medical attendant; the weapon, on the view of suicide, should have been in the grasp of the hand, considering the enormous muscular power which must have been used in an act of cutting, which involved the body of one of the vertebræ; if not in the grasp, the part by which the weapon was held should have been close to the palm.

The right hand presented only on the palmar surface a light streak of blood; the left hand is not described as having any blood upon it. Had the right hand of deceased inflicted such a wound as is described, the back of the hand, as well as probably a part of the palmar surface would have been covered with blood. The presence of a light streak only on the second row of the phalanges of the palm is inexplicable on the presumption of suicide. The weapon must have been grasped and held firmly in the right hand, hence the palmar surface might have

escaped but the dorsal surface, in my opinion, *could not* escape receiving some blood from the vessels divided on the left side, and subsequently from those divided on the right side.

The spot of blood 12 or 14 inches in length, &c., on the bed clothes, and the spots on the pillow to the right have no communication with the main source of hemorrhage. They must have been produced subsequently to the wound in the neck. There is no conceivable theory by which the deceased could have produced them, or that they could have resulted from any act on her part on the supposition of suicide.

Taking the attitude of the body, the nature of the wound, and the medical circumstances in reference to the position of the stains of blood and the weapon, *I am of opinion that this wound was not inflicted by deceased on herself, but that it must have been inflicted by some other person.*

A case somewhat similar occurred to me some years since; the assassin, in this case, cut the throat of a woman while asleep, He cut off one of the cotton strings of her night cap; this was found on the floor. The microscope showed fibres of cotton in the coagulated blood on the razor.

The head of deceased was pressed backward on the pillow, and it would appear as if the chin had been raised or pulled upward at the time of the act of cutting.

ALFRED S. TAYLOR,

Prof. of Medical Jurisprudence and Chemistry, in Guy's Hospital,
15 St. James Terrace, Regent's Park, June 29, 1860.

LETTER FROM PROF. T. G. GEOGHEGAN.

UPPER MARON ST., DUBLIN,
*September* 10, 1860.

My Dear Sir—I herewith apologize for having so long left your letter unanswered.

I have read your well-drawn report with great interest, and feel quite disposed to concur in the general conclusions you have drawn.

The autopsy was very well conducted. I find it impossible to understand how the division of the great vessels should not have discolored more of the adjacent surrounding surfaces with blood, unless under some such state of the circulation as you suggest, and which latter would explain the result.

The lungs also seem to have been congested, a condition not to be expected in death from hemorrhage.

I infer however, that what was found in the pleura, was serum strongly imbued with blood, rather than pure blood, as I have never seen the latter except with a wound. Whilst the bloody fluid is not unusual, as the result of the process of putrefaction, especially under the influences of gases, accumulated in the blood vessels and thus causing exudation. The absence also

of more than slight stains of blood on the hand—the division of the *transverse* process of the cervical *vertebræ* and the condition of the *tongue*, are presumptive of *homicide.*

My best wishes,

Yours, very truly,

T. G. GEOGHEGAN.

Dr. JOHN SWINBURNE, Albany, N. Y.

After transmitting to Dr. Geoghegan some tables* embodying the results of experiments, he sends me the following able and comprehensive answer :

DUBLIN, *December* 18, 1860.

Dear Doctor Swinburne—I feel much obliged by your attention in sending me the report of the inquest in Mrs. Budge's case, and the valuable tables embodying the result of your experiments. Some time since I wrote to you, giving you, I think, a sketch of my views of the matter—the date furnished by yourself.

I quite coincide with you as to the extreme improbability of suicide having been carried out in the present instance, and this for a variety of reasons which you appear to have estimated very correctly.

I cannot conceive in the first place, that had the division of the great vessels been the result of suicide, the circulation being ordinarily vigorous, the neighboring objects, as the head of the bed and walls, bed clothes (i. e. pillows), and doubtless the deceased's face and upper part of the neck, could have escaped being copiously sprinkled with blood; and that part of these marks should have the dotted and interrupted character of an arterial jet. Secondly, that the *lungs* should have been *exsanguined*, or nearly so, instead of *forming characters*, which lead to the legitimate inference that they were *congested* at the time of *death.* The condition of the razor blade, unstained in a great part of its breadth by blood, seems strongly also to militate against *self-murder.* I should have further expected that in case of suicide, followed by rapid death, and where the extent and character of the injury would indicate a most determined effort, the weapon would have been found grasped in the hand as it most usually is. Again, *suicide* by *cutting* the *throat* in the *recumbent* position, is *most unusual.* Nor have I *ever seen* or *read* of a ca e of *suicide*, where a portion of the *bone* was *sliced off.* The seat of the wound is unusual, for a suicide being commonly at one side more than the other, and generally above the os hyoides; these latter however are not decisive criteria. Lastly, the *injuries* of the *tongue* are very *significant.*

With best wishes, yours, very truly,

T. G. GEOGHEGAN.

Dr. J. SWINBURNE, *Albany.*

* All of these tables will be found near the conclusion of this paper.

LETTER FROM DR. CHARLES A. LEE.

PEEKSKILL, *Sept* 28, 1860.

DR. CHARLES H. PORTER:

My Dear Sir—I am much obliged to you for the opportunity of reading your "report of the case of Mrs. B., who died under suspicious circumstances." I have carefully read it, and given it much consideration.

It is due to you to say that it is a most *ingenious*, *judicious* and *satisfactory exposé* of the case.

The conclusions at which you arrive appear to me sound and irresistible and entirely borne out by the facts. There is not a shadow of doubt in my mind that the *incision* was *inflicted after death*, and there is as little doubt that *death* resulted from *suffocation.*

The depth and extent of the wound argue a determination of purpose and strength of wrist possessed by very few suicides—especially females, and I do not believe it possible that such an incision could have been inflicted by the deceased.

The *case* in my judgment could hardly be *strengthened* by any *collateral circumstances.*

If it should appear that the parties lived together unhappily it would go far with a jury to corroborate your theory.

The supposition of suicide I should not suppose could be entertained at all by any person. But even under such (*insanity*) circumstances, I should decidedly coincide with you in the opinions you have expressed in regard to the cause of death; for all the *facts* point *irresistibly* to the *agency* of *another hand.* I have nowhere read a more interesting case or one which has been more ably or logically elucidated, where the reasoning throughout is so thoroughly based on science and established principles of anatomy, physiology and pathology.

I trust you will allow its publication in some of our medical journals, as it is too important to be lost to science.

Allow me to thank you again for your kindness in sending me your report of the case.

I am very truly, yours, &c.,

CHAS. A. LEE.

LETTER FROM DR. S. D. GROSS, PROFESSOR OF SURGERY.

"PHILADELPHIA, *January* 31, 1862.

"Dear Doctor—You ask me in regard to the probable manner of the death of Mrs. Budge; whether, in my judgment, it was caused by her own act or by the act of some one else. After a careful examination of the testimony submitted to me, I have unhesitatingly come to the conclusion that she was destroyed, not by her own hands, but by those of another person. My reasons for this conclusion are the following:

"1st. It is *impossible* for any person to *cut* the *large vessels* of the neck without being *inundated* with *blood.* If Mrs. Budge had been *alive* at the moment her *neck* was cut the *blood* of the *carotid arteries* would have *spurted* about in *every* direction, soiling, not only the *bed* and *body clothes*, but also the *floor*, and probably even the *wall* and *ceiling* of the apartment. I assume that *this* circumstance alone is amply sufficient to establish the fact that she had *ceased* to *breathe* when her *throat was cut* As a surgeon, I cannot conceive of the possibility of such a frightful wound being inflicted without the occurrence of the most profuse hemorrhage, even if life had been destroyed in a few seconds, and the effects of this hemorrhage would, unquestionably, have exhibited themselves in the manner above indicated. Any one who has ever seen a chicken's head severed, knows how long the blood continues to flow in a full stream from the carotid arteries.

"2d. If Mrs. Budge had herself inflicted the *wound*, her *hand*, *face* and *chest* would, *necessarily*, have been *covered* with *blood*, which, however, it appears, was not the case.

"3d. From the fact that the woman was comparatively thin and feeble, I infer that she could not (even if we suppose she possessed most extraordinary will and determination) have wielded the *razor* with which the wound is said to have been inflicted in such a manner and with such force as to shave off the left transverse process of the fifth cervical vertebræ or to divide all the structures in front of the neck, even down to the scalenus muscle. Such a wound as Mrs. Budge's is seldom inflicted by the most robust and courageous suicide.

"4th. From the position of the *razor* and from the almost entire absence of *blood* upon it, to say nothing of the *peculiar shape of the wound*, I cannot suppose that it *was* the *weapon* used to *kill Mrs. Budge.*

"The above facts and considerations are quite sufficient for my purpose. I leave entirely out of the question all the minor points of the case. They establish most irrefragibly, in my judgment, the conclusion that Mrs. Budge's *neck* was *not cut* until she had *ceased* to *breathe*, and consequently, that she was *not* her own *murderer.*

"How she was killed I will not pretend to affirm, but the probability suggests itself to my mind, that the act was effected by *manual strangulation*, and that her *throat was cut immediately after.* This idea derives plausibility from some of the circumstances revealed during the dissection of the body.

"I am, dear doctor, very truly and respectfully your friend and obedient servant, S. D. GROSS.

"Dr. John Swinburne."

## Budge *agt.* Lyon.

We propose here to give somewhat extended abstracts from the evidence introduced on the trial of this now famous libel case (involving as it did the investigation of the cause of the death of the plaintiff's wife), with notes of the charge of Judge Mullen to the jury, with such remarks and criticisms as we may deem just and appropriate; not so much as a vindication of the position taken by us in the foregoing paper, as to enable the public, and especially the medical profession, after a careful and attentive perusal to properly appreciate the important medico-legal positions which were assumed by the professional witnesses for the respective parties, and by the light of reason to solve the seeming mystery surrounding the death of Mrs. Budge.

### Plaintiff's Evidence.

For proof of publication of the libel, he proves that February 13, 1860, was the day on which the libels were sent out to various parts of the country.

Thomas Atkinson of Albany, testified that he printed the said libel for Caleb Lyon, about the middle of February, 1860, (100 copies in number).

Nine witnesses were introduced by the plaintiff, and proved the receipt by them of printed copies of the alleged libelous publication, whereupon the plaintiff rested his case.

### Defendant's Evidence.

EVIDENCE AS TO THE SITUATION AND APPEARANCE OF THE BODY OF MRS. BUDGE WHEN FOUND—MARKS OF BLOOD, &C.

1. Thomas Rogers (for defendant) was coroner when first inquest held; got to house between 9 and 10 day of inquest; I went into bed-room alone; a tumbler, candlestick, and piece of candle on table; * * * head on left-hand pillow; * * chin more than usually elevated. * * Blood had settled inside of wound. * * The body was very cold, joints rigid. * * Two or three stains of blood across the nose as if the finger drawn across; walls of cut bloody, and blood settled in bottom ; a little blood above and below wound, and on neck below chin; a few spatters of blood about as large as head of a pin, six or eight; the neck appeared as if blood had been rubbed with something; discovered blood in back hair on right-hand side ; the streak of blood on right side of neck three inches wide, on left two inches; a lump of clotted blood at right end of cut, blood had run down under shoulder, and some distance beyond; blood under left-hand shoulder, a streak of blood on right side extending to hip, some blood under left shoulder. * * * When I first went in the clothes lay over the left elbow; sheet covered over smooth across the bed, except across the breast, it appeared to be tucked under, a strip (of bloody sheet, ?) ten inches long and four or five wide, which I pulled out and put back as it was before, about an inch visible before I pulled it out; a stain of blood on right-hand sleeve, five or six inches long, averaging three or four inches wide—wider above; the upper (part) of stain slight and not all connected, in streaks; the lower part was connected—thicker blood and deeper stain; the sleeve had been slipped up; some blood on ball of thumb, and inside of fingers, and across ball of fingers; stain on finger lighter towards ends; a little blood on hem of night-gown and wrapper, on each side; night-gown down in front, as far as top of breast, bloody; right pillow had blood on top and lower corner, marks on top as if touched with fingers; the spot on lower corner of right pillow eight or nine inches from neck, no spatters on pillow; hair back

bloody nearly up to ear; the lower edges of pillow nearly even, the upper corners touched each other; pillows large. * * * The blood on sheet across the breast was dry and cracked open when unfolded; clothes at foot of bed tucked in strong; I pulled them out; no blood on walls, &c.; none on floor, looked under bed.

2. Joshua Shepherd (for defence). * * Sunday morning, 11th of December, was called to plaintiff's (Budge's) by his hired girl; it was about 6 A. M., not yet daylight. * * Found plaintiff and family in dining room. * * He (plaintiff) asked me to go into other room; he pointed towards light and wished me to take it and go into other room —pointed to parlor. * * This was all he said. Son and I went into bed-room with light, it was burning when I took it. * * Found Mrs. Budge in bed with her throat cut; she lay nearest fore side; her head on front pillow; on her back; rather inclined to the right; her head nearest further end of front pillow. * * There was a stand near head of bed; there was a tumbler with something in it on stand; candlestick with candle in it. I was in again before breakfast. * * Saw night dress on; blood seemed to run most on right side, back on right shoulder; some on left; saw a finger mark of blood on cheek and nose; no blood on dress in front. Her dress at neck stood open some 2 to 3 inches below cut. Streak of blood above cut and a little below; extended 3 or 4 inches on right side from neck; not as much on left, and did not extend as far; was more under neck. * * Blood extended only an inch or two under on left side; no spatters of blood on clothes, head board or wall; no blood on left hand; some blood on right hand inside, from middle joint to end of fingers. Blood on right arm of night-gown down by wrist; larger than a dollar considerable; no other blood on sleeve but that. The bed clothes were folded down—lay smooth. Saw blood on right-hand pillow on top; appeared to be done with bloody hand; it was nearest the head; it was as if some one had had hold of it and let go. There were 2 or 3 marks on upper sheet near breast; there was a streak of blood 2 inches wide across breast, running towards right arm. Her head appeared settled down in pillow. * * No blood under bed; the bed clothes smooth and natural; no disorder about them.

*Cross-examined.* * * I did not move the body. * * Clotted blood on right side. * * Saw no blood on temples or in hair. * * There were some elongated spots of blood under her jaws. The blood mark on face was as of the finger drawn across the face; small streaks; appeared like 2 or 3 finger marks all made at one time. The streak of blood across breast was in folds of sheet. * * The mark (of blood) on right-hand pillow was about a foot from her head, and was as if she had caught it with her right hand. Saw no blood on end of right-hand pillow; pillow not rumpled except where she lay. The tucking at side not removed further than was necessary to enable her to get in. * * Bed clothes tucked in all around the bed.

3. *Francis Seger, (Judge)*—Was at Budge's on the morning Mrs. B. died. I went into the bedroom where Mrs. B. lay. * * Eyes and mouth closed, chin uncommonly elevated; bedclothes smooth; pillow raised partly on its edge; surface uneven; stains of blood on upper part of it; spots in some places darker than another; stains of blood on face and on inside of hand; fingers drawn up a little; think some blood on night-gown; around and above 6 or 7 inches; marks of blood on inside of hand less than an inch wide at roots of fingers; saw no spatters or spirts of blood; examined wall because my attention was called to it.

*Cross-examined*—The blood was on upper part of sleeve of night-

gown of right arm; more blood on some parts of sleeve than others. The deepest part of stain was not towards elbow; the stain was thicker in one part than another; there was one stain thicker towards wrist than above it; there were marks above the heavy stain; the widest place was above the darkest part.

4. *Ann Murphy*—Helped to empty feather bed. * * Noticed blood on one side (of tick); none on under side. * * Was present when it was opened; feathers put in another tick; this was done in two or three weeks after I went there; it had been out during that time; (stain of blood,) 3-4 of a yard long, and the same width; no blood on feathers; no stains on them; was present all the time while feathers were being taken out; bloody side (of tick was) up when out of doors; the pillows were also on the fence; did not notice them; feathers taken out by me and Mrs. Dow. * * It had rained while it hung there.

*Cross-examined*—Think it snowed while it hung out; Mrs. Dow was there all the time feathers were being changed; Mrs. D. did not take out any lumps of clotted blood: I did not say to her I was sorry I had been deceived about there being clots of blood, and would like to correct it.

5. *Jesse T. Gould*, sworn—Went into the parlor bed room about 7 A. M. * * Her chin was rather elevated; left hand on breast. * * Clothes over elbow of left arm. * * Razor lay four inches from wrist joint. * * Streak of blood on sheet about a foot below fold; it was 2 or 3 inches wide and a foot long; bed clothes all right; no blood under bed; no spatters of blood; a little streak of blood on face as of finger marks; a little on nose and cheek; a litte blood on the inside of right hand and fingers; noticed no blood on her person or night dress; a little streak of blood on lower edge of right sleeve2 or 3 inches long; blood had oozed out of wound on right side and spread 2 or 3 inches.

On left side not as much; 3 inches from chin to the cut; partly below Adam's apple; it turned up; no blood on neck below wound; my impression is, there was a little dead blood between the wound and chin; near upper end of right hand pillow there were marks of blood; ruffled up some; blood run under the body.

*Cross-examined.* * * No blood on left pillow, except round the neck. * * Blood on lower edge of night gown sleeve; not on upper; not sure; fingers bent; hand lay on its back; if blood on outside of sleeve would have seen it. * *

6. *James Springstien.* * * Reached plaintiff's house at 7 A. M. * * Went into room a number of times; was there when body was removed; saw it done; I helped; took it into parlor where it was placed on the feather bed it had laid on; body nearly straight. * * Head on left hand pillow; left hand on breast; right thrown back; the left lay on sheet; I think right thrown toward wall; razor under wrist; saw some blood on inside of right hand, on ends of fingers; razor open; saw no blood on it; saw some marks of blood on face; they looked like finger marks; they were on nose and right cheek; no more blood, except round wound; considerable blood settled close by the cut on each side; some spots of blood on right hand pillow; looked like finger marks; upper edge; 3 or 4 marks; I looked under bed and saw no blood.

*Cross-examined.* * * Did not appear very bloody about her.

7. *Isaac Shell*—I saw body about 11 A. M. * * Did not see much blood. * * Saw a little blood on end nearly of right fingers; no more blood on that hand. * * Saw no blood on wrist; saw some spots of

blood on right sleeve of night gown; stains about ½ inch wide; 2 or 3, from 4 to 6 inches long. * * Blood extended some 3 inches on right side; not as far on left; saw some blood on right pillow on upper side; saw some blood on sheet under her right arm, extending to her throat and cut in the throat. * * No blood on her person, except on her throat; no other blood on her clothes; none on bedstead: a little blood on sheet, which crossed her breast, where it was folded; a blood stain on one of her cheeks as if touched with end of her fingers.

*Cross-examined.* * * Very little blood on razor; could not say it ran on razor; it appeared to run towards edge and dry there; there was a little clotted blood close to her neck; the blood settled under her arm.

8. *Laura E. Seger, (*wife of *Hon. Francis Seger.)*—Was at plaintiff's day of inquest; got there about ten o'clock A. M. * * Saw spot of blood on sheet; eyes and mouth closed; I washed her right hand; there was a stain of blood on three fingers, on the fleshy part, between the first and second joints, and on *thumb*, near *ball of thumb*, and a *stain* across *between points below*; *no* blood on *palm* of *hand*; a stain of *blood* on *nail* of fore finger next to flesh; can't say on which hand; blood ran over back side of right shoulder; * * the knob of hair back (of head) was saturated with blood; none in front of ear; noticed wrist of right hand, no blood on it, or arm; * * noticed no disturbance of bed clothes. * * I assisted in removing night clothes. * * I saw a pillow under her head; it was not bloody as high up as her hair; edge of it under her head; was bloody; no blood on her dress in front, or on her person. * *

*Cross-examined.* * * I took down the rolls of hair; don't know whether they were washed; *cut* off *hair behind* because it was *bloody;* could have washed it: hair smooth; put up with pins; no comb. * *

We deem proper here to insert a portion of the testimony of the witness, Mrs. Seger, as given before the coroner, because, in some respects, it is more clear and definite as to the appearance of the body when found than that given by her on the civil trial.

On her examination before Coroner Rogers, Mrs. Seger testified, among other things, as follows:

"The bed clothing lay smoothly on the bed; and turned over at the top, as we usually make a bed. * * There was *no blood upon* her *chest; none* on her *neck below* the *wound.* * * *No blood upon* the *left hand sleeve* of *the night dress, or upon her arm*; *there was blood upon the right hand, on the inside* on *every finger—just* a *trace* of *blood* on *every finger.* * * *No blood upon the outside* of *the right hand;* no *blood upon* the *right hand sleeve; none upon the wrist.* * * *Washed* the *right hand* with a *white cloth;* the cloth *was stained some* with *blood; not* a *great deal.*

*Cross-examined*—The *blood* had ran up *from* the *roots* of the *hair* about three *inches;* there was *no blood upon* the *side* of the *head* on the hair; it extended towards the ear; it had spread some. * * *No blood on the right arm, from* the *elbow downwards;* there *was very little blood* on the *right hand;* a *slight trace across* the *fingers on* the *inside* of the *right hand; not so wide as a finger, but wider than a knitting needle; wider on some fingers than others;* do not remember which joints the blood was on; *think* it *was* on the *first joints, next* to *the hand*; *there was but one line across, but was not continued between the fingers.* * * *On the ball* of *the thumb, near* the *roots* of *the thumb;* I *saw* no *other blood* on the *inside*

of *the right hand; there was no blood on the outside* of *the right hand; I made the examination for* the *purpose* of *cleansing it.* * * The blood ran down from the neck; back of the shoulder; none on the front part of the shoulder; *no blood on the neck below* the *wound in front; a space two or three inches from the neck on the pillow, where the hand lay, was covered with blood.*" * *

DEFENDANT'S MORAL EVIDENCE.

*Joshua Shepard,* of Greig, Lewis co.—Knew Mrs. B.; lived at a distance of 15 or 16 rods from her house; first knew plaintiff in July, 1859. * * On Sunday morning, 11th Dec'r, was called to plaintiff's by his hired girl * * about 6 A. M. * * not yet daylight. * * Went immediately into room with his son, whose name is Eli; found plaintiff and family there (dining room). * * He pointed to light, and asked me to take it and go into other room; pointed to parlor. * * This was all plaintiff said. * * Son and I went into parlor bed room with light; was burning when I took it. * * Found Mrs. B. on bed with her throat cut. * * I told son to go after neighbors; I returned to dining room, and said to plaintiff, *she is dead,* and I think he said, *Is it so?* He then asked me if I saw any *instrument she killed herself with;* I said I did not look for any. He said, *probably a razor.* His little girl said she would go and see; she went to the pantry and took down box, and said, "Pa, there is but one here!" He said, "There ought to be two." He asked me to go back *and see what instrument she killed herself with.* I said I would rather wait till neighbors came. Adam Shell came in first, where plaintiff and I were; I told him plaintiff wanted me to go and see what she killed herself with, and we went and found a razor under her right arm, half way between elbow and wrist. * * There was a tumbler with something in it on stand; candle stick with candle in it. * * Mrs. B. was at my house sometimes once a week, and sometimes once in two weeks; she was at my house the night before she died; she left at about 8 P. M. She appeared as usual; conversed freely as usual; she was considerable of a talker. The funeral was attended Tuesday; plaintiff at my house Tuesday evening. * * He said he had to remove from one place to another on account of his wife; he had to shift on account of her. He had lived at Bellville, Canada, Camden and Smithfield. Before Higby came in, he took up his little child and said, "Now if he had the means he could go on and educate his children to his mind." * *

*Cross-examined.* The hired girl came to my house and said Mrs. B. had cut her throat; and B. had told her to come in. * * Found plaintiff and family in room. * * huddled together and all crying loud. He motioned to parlor; nothing said. * * When I came from bed room, found plaintiff as I left him. * * Budge and I did not meet often; he and I were friendly.

*Emma M. Gould*—Lived in Greig when Mrs. Budge died; ¼ of a mile from plaintiff (Budge). * * Was well acquainted with Mrs. B.; called frequently during summer and fall; was at plaintiff's morning of day before she died. * * Mrs. B. gave me a letter to give to our hired man to carry to post office, directed to Mrs. Lonsdale, Plymouth, England; her daughter Priscilla was present. * * The same evening plaintiff called at our house about 6 P. M. * * Plaintiff asked me if Mrs. B. had given me a letter; I said she had; he asked me if I had sent it; he said he was glad, and he wished to be allowed the letter; I got it and gave it to him and a quarter of a dollar she gave me to pay postage.

He said "it is hard to take a letter my wife had written, but I am obliged to do so." He said a short time since he had received some verses from his niece in Canada, with music attached, that he left them on the table in his study; Mrs. B. found them and said he received them from his lady friends; he told her he had not; she could not believe him. He thought that the verses were undoubtedly in the letter, and that she would use them with her own composition, in order to misrepresent him. He said, "My troubles have been as they are now for 11 years, and were it not for my children I would not endure it for six hours." He took letter; held it until I saw Mrs. Budge was coming; then he slipped it in his side pocket; I said, "Mr. Budge it is a lady passing the window;" as she passed second window I saw it was Mrs. Budge, and he said, "I warrant it is." I then said, "Mr. Budge, what shall I say to Mrs. Budge in regard to the letter." He said I had better say I had sent it. Then as I arose to open the door, he said, "you need not say by whom." I opened door; Mrs. B. came in; she responded, good evening. She said, "I did not know Budge was in;" he said, "Yes, I came to see Mr. Gould about a man to thrash for me."

*Conversation general.*—She asked me if our hired man had gone to post-office to Falls; I said he had; she asked me if I had sent her letter, and I said I had; she said "I thank you; I am very glad you sent it; it is a very long time since I heard from my sister (Mrs. Lonsdale;) it is such a task to get a letter from her sister, or relations;" I can't say which; mother asked her if she enjoyed good health; she said she was very well, excepting her head; mother said she knew how to sympathize with her, as she had a headache; she then said, "the headache and hard labor I could endure, but I have such a strange feeling in my head; if it was not for my little ones, I could not wish to stay." * * When I said the letter had gone, mother said, "yes. Mrs. Budge, it's gone;" she was never accustomed to labor till she came to America. * * Nothing unusual in her appearance except when she first came in she appeared excited; more composed and cheerful when she found her letter was gone. * * She said in the summer, "I have been accused of a falsehood, but my heavenly father knows I could not tell a lie; I am a stranger; I have no mother or sister to soothe me when sick. * * But I am not a stranger to my father in heaven." She said *wealthy young ladies* could do things which if a poor girl should, people would be surprised; but wealth was of very little consequence, for there would be a day when both rich and poor would be brought before their God and her God, and he would judge them judiciously.

*Helen Shepard*—Live in Greig; knew Mrs. B.; she came 3d or 4th July; I did the dining work for the first three weeks after she came to Lyons Falls. * * I don't remember of plaintiff and his wife speaking together but twice; once he introduced me to Mrs. B, and the other she spoke to him about fire; he talked to me about his wife. * * He said Mrs. B. was sick again. * * He said she would write letters that injured her as much as him; she came up to his room in the night and kept him awake; sometimes she acted so bad he thought of calling Shepard, and if he did not see what rest of family ate and drank he would be afraid of being poisoned; she said if she had pistol she would shoot him; he said people could like her at first but when they got acquainted with her they could have nothing to do with her. * * She had locked him out of doors; he said she had treated him so that he had lost all affection for her; the ties were broken; he said she was a sweet

woman and capable of going in the best society, but there was such things going on at his house she was not fit for decent people to associate (with); she was only fit for (the) "*five points*;" he said if it was not for his children he would not endure it; "there is my Henry, young as he is, would almost weep tears of blood over me and say, 'Pa, why don't you send her away?" (when) I (first) went over to plaintiff's *she slept in dining room bed room;* found her there early in morning; youngest child 2 years old; she slept with her mother; there was a crib in the room in which little Mary slept; I had a letter for Mrs. B,; defendant offers to show that B. opened a sealed letter, read it and put it in his pocket, and it was not delivered to the knowledge of the witness; this was when Mrs. B. was sick abed, and that the letter was postmarked England; I gave letter to Mr. B.; it was sealed; he put it in his pocket; he read it; (saw straw bed; there was no stains on it; looked to find them.) * * She was sick in July about a week, and not again till 13th Sept.; she was about house the following Saturday, again the week before her death; in Sept., on Friday, he gave me what he called Indian hemp, and to give her 15 drops; she had taken as many as 30 drops; she said it was not the right medicine; she spit some out; swallowed some.

*Frances M. Hess*—I lived in plaintiff's house the last of August or first of September. * * * The first thing that attracted my attention was the day I first went there; he came home about 5 P. M., and retired; he passed through the room up to his study; he came down soon after, she did not speak to him; they took tea, and they did not speak; after I went to bed I heard an altercation between him and her; I slept in chamber over dining room; he and his wife were in dining room; he, I was told, slept in his study; he asked her that night why she went to Nova Scotia and staid four months, and he knew not where she was; he spoke in a very excited tone; she low; he said her object had been to torment and make him miserable, she replied; could not understand what she said; he soon said, "you had, and you know you had;" Jenny and Mary slept with Mrs. B. * * * The days I worked there he gave (her) Indian hemp; I saw no doctor there. * * * *

*Mary Ann McMullen.* * * Knew Mrs. B.; I lived there when she died; went there to live the Tuesday before her death; left there Sunday evening after death. * * * I slept up stairs; I went to my room from dining room, I slept alone; the girls slept in dining room bedroom; the boys up stairs over dining room; they went up from kitchen; I went to bed Saturday night about 8; I left plaintiff and Mrs. Budge, Priscilla and Henry (up); the next morning plaintiff called me; plaintiff was in dining room when he called; when I first came down I made the tea for her as she had directed me on Thursday or Friday; *this was the first time I made it;* it was carried into her room by Priscilla; when I made the tea B. was in his room up stairs; can't tell when he went up; when Priscilla went in she came out screaming, and B. came down and asked me what was the matter, and she said her mother had cut her throat—all in kitchen; then B. told me to go over to Shepard's and tell him to come over; B. was in kitchen from (the time) he came down till I went out; Shepard came with me; Mrs. B. went to Gould & Shepard's that night (before she died). * * * Brought back some patterns for children's clothes; she cut out some factory cloth by pattern, and I took back pattern; Mrs. B. very cheerful; went and got me a book to read; she showed me about pictures, and told me about the stories; nothing unusual in her

appearance after she came back; I heard talk between Mrs. B. and children before she went to Gould's; Priscilla and Henry were talking about a letter that her mother had written and given Emma Gould, and Mrs. B. came from dining room and asked what it was all about; she said it was a poor thing she could not send a letter to her sister without it being stopped.

*Cross-examined.* * * * When Priscilla came from Shepard's she spoke to her about telling her father about letter. * * * The fire was lighted when I came down; Priscilla, B. and self were the only ones up when she came out of room (where Mrs. Budge was found dead).

*Delia Shepard.* * * In August, in the morning at table, B. came down and sat at table; one of children said, "I did not know Pa came home last night." Mrs. B. said, "your Pa did not get home last night; he came this morning." He said he got home night before about ten, and couldn't get in. She said she did not hear him. He said he knocked so that Shepard's folks could hear him. She said she woke very easy, and he said, "I know you do." She spoke of a letter he had received from a young lady; she said every young lady in the place should have a copy of that letter. He said, I don't care if you give four score young ladies a copy * * *

*Cross-examined.* He said it was not the first time but it must be the last time he was locked out of his own house. B. said he was not willing to have his children present on such an occasion. * * I remember inquest day she died; I was present some of the time; I was examined. I went home and found B. at father's.

When I entered sitting room, he said, "*Delia, what are they doing over there? are they trying to get anything against me?* I said, "Yes; they spoke of quarrel at breakfast table." He said, "*Just as I expected.*" * * I was examined at Rome; I know he asked me, "*Delia, what are they doing over there? are they trying to get anything against me?*"

*Direct.* After this occasion Mr. B. said she was up till ten o'clock (the night of her death).

*James Springstein.* * * B. came to my house in August, 1859. * * He says, "I wish to say something to your woman about something she has said about me. I heard that she said I was running about where I had no business, and representing me as a bad man." She told him she knew nothing about his business; had heard nothing about him. He said, I believe what you say; I am satisfied, and said people had occasion to talk. He said trouble had begun between him and his wife soon after they moved. He had spent much money taking her back to England, and she came back again; had disturbed him; followed him when he was away from home. He said he was at Lyon's; that he and Mrs. L. was at room, and she looked out and saw a female in the yard. He looked, and said it was Mrs. Budge, I will have to go. *He said he had not lived with her as a companion or as a husband, and never should again; that he had moved and moved, but never should move again for her; but would try one thing more.* He said she was going to mend his coat, and found a letter in his pocket, and she represented it a love letter; but it was not, but a friendly letter from an elderly lady, and he caused it to be destroyed. When he got through, I said to B., "Look here, my dear fellow, we can't always tell men when they come into our neighborhood; we sometimes get deceived by preachers." Told him of several clergymen who had done wrong; and he asked me what did they do with Avery, and I replied, his friends cleared him.

*Hannah Springstein*—Knew Mrs. B.; first knew her in July, 1859. * * Called at my house some four times in all. * * He came to our house; she generally talked over religious matters. * * He (B.) said to husband, I want to ask your wife a question. Husband told me to answer, and to say if I had said anything against him. I said I had not. He said he felt satisfied. He had a great deal of trouble with his wife, commencing soon after marriage—jealousy Folks had talked, and had occasion to talk. He had *moved and moved, but should never move again for her; he should try one thing more; had no affection for her. Had not lived with her as a companion in several years, and never should again.* She said she had found letter in his pocket, which she called a love-letter, and he had destroyed it. He said it was from an elderly lady. He said when first married she was a very nice woman and any young man might be proud of. * * *

*Cross-examined*—When B. was at my house he said it would be no satisfaction to you to call at my house, unless you join her in her conversation. * *

*Adam Deitz*, postmaster of Greig, Lewis county—Plaintiff was at my office in the morning of October 1859; had a talk with him about his wife; he said he had a good deal of trouble with his wife; she was of a jealous disposition; defendant offers to show that the plaintiff (Budge) went to the witness' office and withdrew a letter mailed by the wife (Mrs. Budge); and also to show that he told the witness that he had frequently intercepted her letters; the plaintiff's (Budge) counsel concedes that defendant may prove that the witness withdrew letters to her friends. The objection is sustained unless it is shown that the letters intercepted were addressed to her friends.

*Catharine S. Dwight*—Lived in Adams, Jefferson county in 1857 and 1858; lived in Belville; knew plaintiff and his wife. * * Budge was pastor of our church; my husband was elder of it; first knew them in 1850; he then lived in Smithville, Jefferson county, six or seven miles from Belville; he lived near there; I lived in Henderson, four miles from the church; I was (then) unmarried. * * Can't say whether he was there 1 or 2 years; think he was at Rutland, Jefferson county, some 20 miles from Smithville; he returned to Smithville; was gone 3, 4 or 5 months: he went to Camden, Oneida county; saw plaintiff (Budge) occasionally when he came back from Rutland; he came to Belville in the fall of 1857; in Belville he lived about 50 rods from our house, with his family. * * Her youngest child was born in Camden, and was six weeks old when she came to Belville; she was sick at Belville in 1858; I saw Mrs. B. every day or two after she came, and up to her sickness; she was sick two weeks and then he took her to Canada. * * B. boarded at our house until 4th June; was in Kingston. * * Left for England about 1st of July; he returned to our house 28th August. * * He continued to preach at Belville; saw his wife at our house after her return from England in 1859. * * After he returned from England he boarded at our house till middle of next February; he left, saying he was going to Lyons Falls; before he went to Canada with wife, had a talk with him; he said he "was having a great deal of trouble with his wife; always had a great deal of trouble with her; they commenced three weeks after marriage; she was very jealous of him; she annoyed him in various ways; he felt as though he could not endure it any longer; he thought he must avoid it by a divorce or in some other way;" he said "she had been the means of his removal from places where he had

been; he thought he would take her to her parents in England, he could live with her no longer, and say to her father he must take care of her;" I told him I always supposed that they lived happily; considered her a very superior woman; prayed him to be reconciled and told him instances in which I thought she was more considerate of him than other women; I told him she had told me that when she was sick she had stand and flat iron brought and she ironed collars for him, as he was particular and girl could not suit him, even when she was unable to be about house; I was at her house and she wanted me to prepare something nice for dinner; she did not care for herself or children, but wanted something nice for him; I did it and she seemed to enjoy it; I begged him to look the subject over and be reasonable to her and live happy; he said he thought he never could; he tried to live pleasantly with her but could not; he told me her father disowned her on account of her marriage; that her father was a man in high position, wealthy; she was well educated and moved in high circles; after he returned from England he told me of an affair that happened in his study; he said she had been troubling him in his study; he became *enraged* and *put his hands on her shoulders to push her down stairs;* but thought of *consequences and desisted;* he spoke of his trouble frequently; he said that after he returned from England *he was often tempted to do something desperate;* he said in case she should return from England *he would be tempted to go to Sandwich Islands or some where where he would never be heard of;* he told me he received a letter from England saying his wife was very sick, and another might bring announcement of her death; he felt sad to live with a companion in such way; that if he should hear of her death *he could not mourn for her;* heard him speak of a divorce twice; he never intimated she was not chaste; I was with Mrs. B. quite frequently; often when she and he were at home; they were both at my house together. * *

*Cross-examination.* * * Saw nothing in his conduct as a husband that was objectionable; he did not go with his wife visiting. * * I saw him then at my father's 3 or 4 times. * *

*D. Alton Dwight*—Live in Adams, Jefferson county. First got acquainted with Budge in 1850; married in 1854; in 1857 knew B. in Belleville; was an officer of his church while he was there. Our family was very intimate. I knew she (Mrs. Budge) had to work very hard to take care of her family; had a great deal to do; had a young child (six children in all); part of the time without a girl; my father was a physician. * * Saw Mr. B. and her soon after she returned from England. * * In May, 1858, had a talk with Budge a short time before she went to Canada, at my house. He said he lived very unhappily with his family; he felt he could not endure it much longer, he must be separated from her *by some means.* Myself and wife remonstrated against such a course; I told him how people would not endure such a state of things. After he returned from England, went to Watertown with him; he stated difficulties he had in his family, commencing soon after marriage and continued at intervals ever since. * * When he returned from England he said she came into his study to annoy him, and he took her by shoulders to push her down or get away from her some way; the thoughts of the consequences deterred him from doing it. * * *He said he had often prayed he might not be left to do some awful thing.* He said she had often annoyed him so that he would have to get up and walk the floor, and his head would feel as though it would burst.

He said when in Canada he offered to carry daughter of one of parishioners to her friends, and his wife objected. * *

He said his niece came to visit him in Rutland, and he took her around amongst his parishioners, and his wife made a fuss about it (and girl felt so bad about it that niece left and went to Canada).

He said she thought at a party that he treated other ladies better than he did her, and she was so displeased about it that she treated the ladies so that he had to leave.

At one time he wanted to go to farm, and she did not want him to, and took hold of him and told child to call daughter to come and hold him. (He frequently said he would go to Sandwich Islands or somewhere where his family could never hear of him.)

He was complaining of being absent from his family, and I said (he said) he was happier without them, and he said *it was so.*

*Mary B. Lyon*—Live at Lyons' Falls; knew plaintiff; I am a member of his church; became acquainted with B. in 1859 at my house. * * Made it his home there until his family came. * * Had a little talk with him before his family came from England; he said he did not know as he ought to have taken charge of the church; he was anxious about her (Mrs. B.) state of mind or feeling when she came back. * * that it was difficult to counteract her feelings when she was in this peculiar state of mind; he said he had then trouble from her friends in England and told them he could not live in such a state and take care of his family; he said he could not live with them (her) as his wife in the state he had been; he said his life was so nearly crushed out of him he could not tend to his duty * * He told them decidedly he could not live with her as he had done and take care of his family; he said it was owing to her yielding to her jealousy, and stated how it developed itself; Budge and his wife called on me several times; they came to my house three weeks after she came; I called my daughter Mary; she was then seventeen; she (Mrs. Budge) said Budge had written a letter to Bellville with improper things in it; she said your daughter was writing to Budge what was not proper; I thought not; I called Mary and told her she should speak for herself, and requested her to bring a note which I knew she had; it was shown Mrs. B.; she said there was nothing wrong in that, and she must have written something else; Mary said not, and Mrs. B. said she had; it was of an improper character.

I asked Mrs. B. why she did not bring it to me if she had anything in her possession of an improper character; and if improper, it would receive my attention at once; I asked her if she remembered what it was, and she said it was all about love; I asked her for the language, and she said that it said she could die for him; think she said she found it in his pocket; then Mary said, why Mrs. B. I would not do such a thing—never did such a thing in my life; I asked her why she burned it; I said, it enables you to make the charge, and we cannot refute (it); you ought to have brought it to me; B. says to her, "you have access to all my letters; I have left them so you would not be uneasy; I have left my letters when written so you could read them; you have burned all my correspondence, so that I have not half dozen letters of my correspondence in twelve years;" I told her it was wrong for her to take that course; B. said he had written letters to a friend of hers at Bellville, and had left it on table so she could read it; and "why do you burn it up?" she said she burned it up because there was sentences in it which were improper; I said to her, if it was the case, and should find in her letter or letters to him that was wrong, I should keep it; not let it be destroyed; I said if she developed so on me I could not respect her as I

otherwise would; I told her our interviews of that kind would not be pleasant; had none with her after that. * *

*Re-direct*—I attend his church now. * *

The following persons for the defence testified as to the general bad character of Mr. Budge:

*Alexander Row*, of Bellville—in whose house plaintiff lived in fall of 1857.

Q.—What was his general character previous to Feb. 10, 1860.

A.—*Bad.*

*Leonard Kennedy*, of Bellville.—Knew plaintiff when he first came in 1857; my acquaintance with B. was as pastor; I was member of the church, part of the time elder; prior to February, 1860, Budge's general character *bad.*

*Nathan Chamberlain*, of Ellisburgh.—Knew Budge; knew him first in 1857 in Ellisburgh; knew him in Bellville; former character prior to February, 1860, *bad.*

*Almanzor Converse*, of Ellisburgh—Am member of Presbyterian Church, Bellville; deacon and elder in it; I attended church while B. presided there; *character bad.*

*Virgil Warne*, of Ellisburgh—Knew plaintiff; got acquainted with him immediately after he came to Bellville; I was a member of his church; *his general character bad.*

*Harlon Buck*, of Leyden, Lewis county.—Know Budge, and have since 1858. * * *Character bad.*

*Walter Higby*, Port Leyden, Lewis county—Knew Budge, and have since spring of 1859; lived four miles from him; his *general character is not good.*

*Thomas Rogers* (coroner,) Lyons' Falls, Lewis county.—Have means of knowing general character of Budge before libel; *it is bad.*

*Andrew Thomas*, Leyden, Lewis county—know Budge by sight; have means of knowing his character to some extent; *it is not good.*

*Nelson Barknap*, of Greig, Lewis county—(Live) 6 or 7 miles from Budge's house; have means of knowing his general character; *it is bad.*

*Newton Northam*, of Leyden, Lewis county.—Know plaintiff, and have since 1859; was member of Congregational church at Port Leyden; knew his character; *it was bad,*

*Henry Northam*, of Leyden—Attended Budge's church 8 or 9 months; am a Methodist; his general character up to fore part of February, 1860, I should *judge it bad.*

*Isaac Shell*, of Collinsville, Lewis county—Sold farm to Budge. * * Had dealings with him; *his general character bad.*

*Jesse T. Gould.* * * I was at home on the evening Budge came there (to my house;) * * He then asked my daughter for letter; she said Mrs. Budge had given her a letter, and he said if not mailed he should like to get it; he said it was hard to intercept a wife's letters, but he was obliged to do it; he had endured those troubles for the last 11 years, and if it were not for his children he would not endure it six hours; told girl to get letter and give him; she got letter and piece of money and handed to him; daughter said Mrs. B. was passing; he said,

"I warrant it is;" daughter says, "what shall I say I have done with the letter?" and he said, "tell her you have sent it;" Mrs. Budge came in, and said, "I did not expect to see Budge here this evening." * * After Mrs. B. sat down she turned to Emma and asked if letter had been sent, and Emma said yes; wife said, yes, it is gone; Mrs. Budge said she was glad of it; it was so much trouble for her to get a letter to her friend. * * She said she was troubled a good deal with her head feeling so bad; wife said she had headache; Mrs. Budge said it was not headache—*that* she could endure; she spoke of Budge's being gone so much. * * Budge started (for home) saying nothing to Mrs. Budge; went to Budge's Wednesday or Thursday evening of the same week; Budge in dining room; asked him how his wife was; he answered me; I said it was a hard case for a person to be in that condition referring to; he said *he did not consider her crazy;* she would take one mistaken idea and look at it until she would become distracted; he said her *last sickness was caused by his being out rather later than usual, and she said she would not sleep that night and he should not;* she kept him travelling from room to room; that she threw the candlestick at him, and kept it up until 6 A. M.; then she got so exhausted that she lay down and got an hour or two of sleep; he said such a state of things could not be endured always; he said he never would have taken that mission if he had supposed she was coming back from England; that these things did not affect him in Bellville as here among strangers.

*Cross-examined.*—After Mrs. Budge said it was the strange feeling in her head, she added if it was not for the little ones she would not wish to stay; she said that the noise of the children troubled her; she wanted Budge to send them to school, but he would not; she said she only cared for her children, and if it was not for them she would not care to stay.

### Plaintiff's Rebutting Evidence.

The plaintiff, Mr. Budge, called a number of witnesses to sustain himself upon the question of character, the substance of whose testimony was, that they considered his general character good, and had heard nothing against his moral character, previous to the publication of the alleged libel.

*William J. Olmsted,** physician and surgeon—Saw body; it was in parlor bed room; I was there; I was sworn on the inquest, and at Rome. * * There was blood in the wound; it was clotted. There were small clots inside the wound; head a very little turned to right, and a good deal imbedded in pillow; blood on both right and left sides of neck; right hand bloody; considerable blood on sleeve of right arm; some part of sleeve very bloody; as it went towards elbow lighter; presented a matted appearance; it extended to elbow. The upper spots on sleeve looked like soaked spots; think they extended above elbow; did not cover the whole surface of the sleeve; stains of blood across fingers, between second and third joints; some on ball of hand. It was my impression there was blood between the fingers as far as I could see between them; some spots of blood on sleeve presented round appearance; some from size of five cent piece to a quarter; some were oblong or elongated; the blood had flown down under the right shoulder and

* On the trial of the slander suit of the Rev. Henry Budge against Hon. Caleb Lyon, previously spoken of, the family physician was again sworn. This time however he was subpœnaed by the plaintiff Budge, and hence becomes witness for him. I will, therefore, quote all he says, as taken from the notes of the presiding Judge (Mullen) verbatim, as far as they refer to the medical points in question.

toward right sleeve; the spots were elongated toward elbow. * * There was blood on neck above and below wound and on chin; blood was on neck below wound an inch or two; some blood on binding of under clothes; cannot say which garment. * * Hair *behind* very bloody; bloody by her twist, i. e. knob back of head; clotted blood on each side of wound, particularly on right, and extended from 2 to 4 inches; it was a clot of blood.

There were specks or spatters of blood on the face; where located can not say; most very minute; some round and some elongated. * *

*Cross-examined.* * * Not certain as to blood between fingers of right hand; saw no blood on left hand nor on night gown. * * Can't say positively there was any spots of blood beyond 3 or 4 inches from the neck. * * Spots on face small; size of shot. Blade of razor not entirely covered with blood; think as much as 1-3 from edge up; blood extended from wrist of night gown 4 to 6 inches, and I now think more. * * Bed clothes smooth; considerably more blood on right than left side of neck. * * Discovered blood on upper sheet 4 to 6 inches wide and 10 inches long, in front of person.

On this his seventh examination, while being examined on the re-direct, Dr. O. remembered that while the feather bed was being carried out by two persons, he "placed hand under part that sagged most, and my hand was stained with blood."

Now it will be seen that there is little variation in this statement, and that it is essentially the same as that laid down in this paper, and notwithstanding some effort was made to show more blood, it fell short of the mark—since it could not be proved that any blood passed through the feather bed, as was evidenced by the straw tick and boards to which it was subsequently removed—one side of feather tick only was bloody, showing that the blood had not run through, and there was no bloody feathers in the bed except at most a clot of blood and feathers as large as a quart mug, and a small stain on the lower side of feather tick.

Instead of giving all the medical evidence for the prosecution, I present that of Doctor *Olmstead*, and refer the reader to statement of Dr. Clark, as to the condition of Mrs. Budge's body, bed, and body clothing, stains of blood, &c., as presented to the Academy of Medicine, Dec. 18th, 1861. It is as follows:

"A woman is found in her bed of a morning with her throat cut, lying upon her back, a little turned to the right; her head turned a little more in the same direction than the body. A considerable quantity of blood had flowed from the wound upon each side of the neck; most upon the right. She was lying on the left hand pillow near its right extremity. There was sprinkling of blood to a limited extent; some upon her face, in the curls of her hair, on the right hand pillow at a distance of about two feet from the wound, and on the left hand pillow at a distance of nine inches to a foot. The knot of the hair at the back of the head was saturated with blood, clots of considerable size were found along the right shoulder, and blood had flowed down to the hips and had entered the feather-bed, so as to saturate a considerable spot at this place, i. e. in the position of the hips, causing a sensation of weight to the hand placed under the bed, and moistening the hand with blood.

The quantity of blood lost could not be accurately estimated, but the bed, after it had been exposed to the rain* and weather for several

* Any one familiar with a northern winter knows full well how little rain falls in December and January; there is a little rain, but not enough to wet a feather-tick hanging astride a fence; and if wet through it would only have diffused the blood instead of leaving all the feathers but the clot entirely unstained with blood.

weeks, still contained a coagulum with feathers which was compared in size to a duck; another coagulum was found in the feathers of the left hand pillow about the size of the fist. One or two clots, compared to the size of the two hands, were found upon the surface of the bed. A spot of blood about nine inches in length, and of less width, was observed upon the sheet turned down over the body near to the hips; and some spots of blood were noticed in the blankets under the sheet.

The right hand was lying by the side, the arm somewhat bent at the elbow, and the hand at a distance of about six inches from the hips. Under the wrist and hands was found a razor, partly open and partly covered with blood. This hand was bloody, but not covered with blood, more in the inside than on the back of the fingers.

On the left hand a few spots of blood are described at the ends of the fingers. The curls which had been put up for the night, were not ruffled or in any way disturbed. There was no scratch, or abrasion, ecchymosis, or other mark of violence upon the face, hands, or any part of the body, except the cut already referred to.

There were marks of bloody fingers on the face, described as if beginning on the left side, and drawn across the nose, but so vaguely described, that it could not be determined whether they were made by the right hand or by the left. Marks of bloody fingers were described on the inferior and left corner of the right hand pillow, and also on or about the middle or centre of the same pillow. When, however, the pillow tick, produced in court, was seen to be sprinkled with blood at about the same spot, a question was raised whether these latter marks were produced by sprinkling or by the hand.*

The woman had not removed her drawers or flannel petticoat, and the night dress was turned down from the neck. Little or no blood is described as seen on the chest below the upper edge of the flannel dress, which was under the night gown.

The cut in the neck was five inches and a half in its curved measure and three inches in its direct length. It began on the left side at a point nearly opposite the cricoid cartilage upon the sternocleido-mastoid muscle near its posterior border, passed directly inwards towards the centre of the neck and in the line of a radius from that centre to the depth of about three-quarters of an inch; it then swept over the fifth cervical vertebra, shaving off a small portion of the transverse process, passing over the body of the vertebra, penetrating its covering and making a slight impression upon the bone itself, and from that passing out in a direct line on the right sterno-cleido-mastoid muscle, cutting the inner portion of the muscle, and extending half an inch in the skin beyond the parts of the muscle cut—in other words passing outwards nearly in a direct lateral line. The left extremity of the incision was three and one-quarter inches below the lobe of the ear, and the right extremity three and one-half inches below the corresponding point on that side. The cut had severed the cricoid cartilage and all the muscles in its track, together with the deep jugular vein, the pneumo-gastric nerve, and the carotid artery on each side.

* It must be remembered that these pillows remained in the possession of the prisoner and when the second inquest was made nothing was said of them, and when it was found that blood stains were of some importance, a pair of pillow ticks were produced in court. They suddenly find, after the expiration of nearly two years, that when "the pillow tick, produced in court, was seen to be sprinkled with blood about the same spot," (as mark described as of the bloody hand,) the question naturally arises, who sprinkled them with blood? evidently it was not found there at the time of the death of Mrs. Budge, since all the reliable witnesses agree that there were no stains of blood on the right hand pillow except such as would be produced by being clutched with a bloody hand.

The bed was four feet and four inches in width, and stood in the corner of the room, so that the head of the bed was against the wall and the right side of the bed also against another wall. The room was about seven feet wide and nine feet long. In the space between the bed and the wall on the left side, at the head of the bed, was a stand about two feet and one half in length and eighteen to twenty-four inches wide, on which were found a tumbler, vials, and other furniture in order and undisturbed. The cut appeared to have been one incision.

Two important facts are yet to be stated. The right sleeve of the night gown, buttoned at the wrist, was bloody on the part looking toward the body. Between the wrist and elbow a part of the sleeve was "soaked" with blood, and near the elbow was a sprinkling by drops, which were elongated towards this joint.

The other fact is this, while women were "laying out the body," one of them lifting the arm of the dead person, saw bloody froth or rather large blood bubbles rise from the trachea into the wound. Interested in this occurrence, she again lifted the arm with the same result.

A coroner's inquest was held, and the woman was buried under the verdict of suicide. Four months after this, on the 10th of April, 1860, under the suspicion of murder, her body was exhumed and a post-mortem examination made. The body was found in a good state of preservation. The lungs were reported as congested and engorged with blood. Bloody fluid was found in each pleuritic cavity, estimated at five ounces on the left side and eight on the right. The lungs were slightly adherent, otherwise they were healthy. The heart was empty and sound in every particular. The brain exhibited no appearance of any disease, but had undergone considerable change from decomposition. All the other organs examined were found healthy and free from blood. The stomach and intestines were reserved for chemical examination. The tongue opposite the molar teeth was found to be ecchymosed in a space on the left side about one inch in length and somewhat more than half an inch in width. On the right side was a similar spot of about one half that extent. In the right lung were several spots of pulmonary apoplexy."

Evidence of *Henry Budge*, plaintiff—Married in Plymouth, Devonshire, England; I was engaged in clothing and dry goods business; she was an assistant in the same store for her brother-in-law; her father sail maker in dock yard at Davenport. I was 19 when married; she was 26. Continued in same business about a year; married in 1846. I had given and was then giving my attention to preparing for the ministry. I then went to London, and she came in about two weeks. I completed preparations for ministry; spent a year in London; I got credentials there, and was accredited to the Canada Conference. * * I went to Canada to Ottawa. * * Next went to Prescott; took family; were there one year. She attended me one afternoon on a visit to an aged couple; had religious service; they had a neice; I had not seen her before. On leaving, my wife asked me if I had been there before; my wife asked me if I had seen girl before; I said no; *she thought I took too much interest in her.* Called at Mrs. Frazier's and Mrs. Frazier asked what occurred the day before; and learned that Mrs. Budge had been there; and Mrs. Budge said she had been to Mrs. Frazier's and was treated so shamefully that she could not stay another day, and called it a cursed country and wanted to go back. I asked her to wait till end of year; she wanted her trunk packed, and I helped her. I went with her to my sister's at Kingston, and staid two weeks. Returned to Pres

cott and resigned my place; went to Kingston, and she wanted me to stay there; I said I could not as I was in the ministry and wished to remain in it. She prevailed on me to take house; I took two rooms; sold books; remained in house two weeks. Talked with her and she said she wished to go home; I said we would go to hotel and stay, and take boat; we did; procured cabin passage by aid of Dr. Jenkins; told her she had better go home and I would stay and resume my ministry, and she could return if she changed her mind; became agent of the British and Foreign Bible Society. I started and was gone on my tour three months. When I returned I found Dr. Jenkins had received letter from captain of vessel, saying that Mrs. B. had left them at Nova Scotia; I took measures and found her at Nova Scotia. While preparing means to send to her, I received a letter from her; it stated that she refused to go home; was very poor and wanted money, and said she would like to come back; I sent $40 through the post office. She came to Montreal by way of Quebec; furnished another house and remained with her till end of year. She asked me if I would prefer to resume ministry. * * I resumed my charge in ministry; came to Ellisville. * * She wanted to come to the States, as her conduct had affected her standing in society. Stayed at Ellisville and Rutland by request of the people; was there 9 months as minister, and 3 months I was sick. * * While at Rutland my niece visited me to spend a few weeks. I proposed to wife to call with niece on some families, to make it more pleasant for niece; took her and returned about 5 P. M. Mrs. Budge asked us if we had a fine time; *she doubled up her fist and said, "You shall never come to me again—never will I have a child by you."* Took niece to Watertown and had her sent home; then went to Smithville to preach. * * Stayed two years and three months; then went to Camden and stayed two years. Towards close of second year, *she asked one day if I was exchanging glances with young lady in choir;* I said no; *and she refused to receive visits of young lady or her family.* * * Returned to Smithville; went from Smithville to Bellville. * * Left for Canada in about 7 months. * * One Sabbath when I returned from church I wanted tea; she wanted me to remain; I went and returned; found house locked; kept out an hour; I asked the reason, and she said *I had no business out.* * * The next morning I was going out and she got into door and stopped me and called to men to stop me. * * The last part of our stay at Bellville she put her hoop skirt outside her dress and danced about; *threatened to kick me.* * * Took her to Canada. * * We all went to England. * * Arranged to leave her in England a year. * * I came back to Bellville. * * Next went to Lyons Falls. * * One day in Prescott was preparing sermon for funeral; she came in and asked me if I was going to such a place; she said I was not bound to go, and wanted me to leave; I wanted her to leave; she refused and began to broom the room; I told her I would put her out; took hold of her arms and pushed her back, and she fell and got hold of my feet; I got feet from her and then put her out and locked the door. That was the only time I ever put my hands on her.

When I first went to Lyons' Falls, went to L. R. Lyons'; I preached two Sabbaths before I was called. * * Went to Smithville, and met family there. * * Went back to Lyons' Falls; returned again in a week; *she made a bed in a closet on floor, and she went into other room and slept with children; did not lodge together after that.* * * Brought her to Lyons' Falls. * * About two weeks before death insanity developed itself to my conviction. * * In August she was extremely

religious, and her manner peculiar in worship, and talk in prayer; went into her room and asked her what she would have; she said her Heavenly Father was going to take her, and wanted me to pray, *but not for other women;* and I prayed as well I could, and she said she would show me, and did. * * The next was at the transaction when she was in cellar and afraid of devils. * * She locked me out and I slept in barn.*

"One week ago last Tuesday evening, on my return from Port Leyden, where I had attended a regular meeting of my church, I was met in a similar manner to that above mentioned at Bellville; I proceeded to my room, * * stating at the time that I was very tired and needed rest. Her remark was, "You shan't rest in this house this night," throwing, at the time, a pair of scissors, which passed close to my head, and struck in the wall over the bed; feeling a little alarmed, I came out into this room. Finding the key was taken from the door which prevented me any seclusion, I urged her to retire, that the children could not rest (closing the door while speaking); she, at the time, saying they shouldn't sleep, nor nobody else that night in this house; about this time a candlestick and lighted candle was thrown at me by her, that was followed by my watch, which was also thrown at me; the children, some of them, at this time had risen from bed, and I proceeded to their room, bade them retire, and closed the door—remained near it until the clock struck six the next morning.

* * During the night she was continually talking in an excited manner; some part of the night sitting at the stove; she tore the hair pins from her hair, and threw them at the stove, and dishevelled her hair. * * Last night, (the night on the morning after which she was found dead,) when I returned from Turin, about dark, she again questioned me closely as to where I had been through the day, and what doing; I answered those questions, gave a full statement and my business at Turin; about this time I left the house and called at Jesse T. Gould's a short time after, she (Mrs. Budge) came in; the conversation was general; after my return home in her company, I found she had gone again to call on Mr. Shepard; I remained reading in this room during her absence; when she returned, she heard my little boy ask me the order of service for to-day, how many appointments I had: I stated I was going to Constableville at night; this displeased her, and led to complaining remarks. * * About half-past nine went up stairs to my bed, and did not see her after that; this morning, by five and a half o'clock, in company with my two little boys, came down stairs, lighted the fire in this room and in the kitchen; then proceeded to my study, while there I heard my little girl cry out very loud; I came down stairs to enquire the cause; she says: "Oh! pa, ma is dead!" I asked her how she knew; she satisfied me; I said, "Call Mr. Shepard;" Mr. Shepard and Eli came in, and I asked them to go and look, and they said it was so; my little girl came to me at the barn last night, and stated that "ma had given Emma Gould a letter to somebody, and I told her that ma was going to make trouble, and wished her to keep that letter for you;" when at Mr. Gould's I asked if I might be allowed that letter, and Emma delivered it to me; I found it was addressed to her sister in England; *I have never intercepted a letter to her friends before.* * * * * My reason for doing it now was because of threats,

* It may not be improper here to add a few extracts from the evidence of the witness, Mr. Budge, as given by him before Coroner Rogers upon the first inquisition, and as read in evidence before the same officer upon the examination of Mr. Budge upon the charge of murder, we feel no hesitancy in doing this since this evidence was read from the original minutes on the trial of the libel case.

that if people wouldn't believe her here she would expose me where people would believe her; she had taken some verses with music attached from my desk, which I had received from a niece in Canada; she insisted that it was from some one of my lady friends; would not take my word; supposing that these verses were in that letter, as she had threatened to send them with her usual interpretations, I opened the letter; the verses were not inclosed, but the fact was stated therein that she had got them; other comments about my going to Constableville, and other places out of my immediate parish, all tending to misrepresent me and the truth; I threw the letter in the fire; she stated, also, in the letter, "Such is my misery here where I have no friends, that I sympathize with pieces I read in the papers of persons who commit suicide;" she did not know anything that the letter had been burned; she did not ask about it. * * I heard no noise during the night; I never knew her take any instrument indicating that she designed to commit suicide."

### Substance of Judge's Charge to Jury.

Causing libel to be printed in Albany, in which Taylor or Atkinson participated, was a publication.

The defendant caused the libel to be printed.

The defendant, having the sole custody of the printed libel, is liable as for a publication, if any one or more of them get into circulation by his act or neglect; and being found in circulation, it is incumbent on the defendant to show that such circulation was not by his act or neglect.

If the mailing of the libel was the act of some third person, in which the defendant did not participate, he is not responsible for this publication; but if he so participate he is responsible.

The libel is to receive a reasonable construction, not a strained one, either to charge or discharge the defendant.

Does the libel charge upon the defendant the crime of murder?

Does it contain any charge holding the plaintiff up to public notice, ridicule or contempt? If so, it is actionable.

Does it accuse him of criminal intercourse with other women?

The defence has undertaken to justify the charge of murder only.

To establish his *defence* he must prove beyond a reasonable doubt that *Priscilla Budge* was, on the night of the 10th December, 1859, *wilfully murdered* by the *plaintiff* in this case.

He further *insists*, by way of *defence*, that the *circumstances* attending the *death* of *Mrs. Budge*, were *such* as to show that the defendant in making the charge was without malice.

If the *justification* is *established* the *defendant* is entitled to a *verdict* in his *favor*.

If the *latter defence* is proved, it *does* not *entitle* him to a *verdict* in his *favor*; it *merely mitigates* or *lessens* the *damages*.

The *first* question then, is whether on the *evidence* it is *established beyond a reasonable doubt* that *plaintiff murdered* his *wife*.

To establish this *defence* the *defendant* relies on the *following propositions*, which he *insists* the evidence *demonstrates:*

*I. That Mrs. Budge was suffocated or strangled before her throat was cut.*

II. If not, some *person* other than *herself inflicted* the *fatal wound.*

III. That the *plaintiff did commit* the *crime.*

1st. The plaintiff and his wife lived unhappily, and the plaintiff was the *offending* party; *omitted* to *cohabit;* while she *was* incapable of *doing* labor she was left to *perform* it, and no *hired help* employed to *relieve* her.

His declarations as to *violence* to her, and that he *could* not or *would* not *live so*.

Does the evidence satisfy you that the difficulty which existed between plaintiff and his wife had so far alienated his affection from her as to induce him to desire her death.

If so, then it is a circumstance of great significance and requires the jury to examine the other facts attending the crime, as pointing to the person guilty of the offence, if one was committed.

If *he* was not the *culpable party*, then it loses its *significance* so far as the difficulties may have agency, if any, in inducing him to commit the offence.

2d. The position of the body, bed and clothes, were such as indicated the act not to be hers. Convulsions attend hemorrhage and this would derange bed clothes.

3d. The cut was one which Mrs. B. herself could not make.

4th. It is alleged that she was suffocated before the wound was inflicted, and this, they say, was proved.

1st. By the small quantity of blood found.

2d. That if the large arteries had been cut in life the blood would have been found scattered over the clothes and walls. (SWINBURNE.)

3d. In case of suffocation, one or both lungs become gorged with blood, and that such appearances existed in this lung in this case.

4th. That it was not by hemorrhage. (SWINBURNE.)

1st. No evidence of convulsions.

2d. Eyes and mouth would be open.

3d. There was not as much blood as would be discharged in such case.

4th. That it was not scattered as it would be from the arteries of throat if cut with the heart beating.

The evidence on part of the plaintiff, on this point, is by Drs. Clark,* Hogeboom, Coventry, and Thomas, who testify in substance:

1st. That the cut could only be made from left to right and could be made by her.

2d. That they knew of no way in which it could be done by another.

3d. That the blood when *arteries* are cut would be discharged against upper wall of wound *and would not be scattered about.*

4th. That she did not die by suffocation or strangulation.

5th. That she did die by hemorrhage.

6th. That in case of death by hemorrhage, the heart and vessels of the circulating system would be empty and would be pale. That in this case they were empty and pale.

7th. That in case of death by suffocation or strangulation, the body would exhibit external marks and the lungs would be congested, as would the tissue under the scalp and under the pericardium.

8th. She threatened self destruction.

9th. She was insane.

### MITIGATION OF DAMAGES.

If a publication is proved the law implies malice. But the amount of damages will depend upon the degree of malice which influenced the defendant in writing and publishing the libel in question.

This malice is evidenced:

1st. By the matter of the libel.

* Dr. Alonzo Clark, of New York city, Drs. Hogeboom, Coventry and Thomas, of Utica.

2d. By the extent of the publication.

3d. The good or bad character of the plaintiff, (Budge.)

4th. By the actual injury done to the party, and to this the jury may add damages by way of punishment.

Malice being of the essence of liability in cases of libel, it is competent for the defendant to show that he was not actuated by it in writing or publishing the libel.

The absence of malice must appear, as a general thing, from the facts and circumstances existing at the time of the publication.

The fact that the defendant, at the time of the publication had reason from the facts and circumstances, existing at or before the publication, to believe the plaintiff was guilty of the acts charged, he would not be thereby relieved from liability for the damages which legitimately and naturally resulted from the publication; but it would relieve him from any liability which the existence of actual malice would justify and require the jury to give.

The bad character of the plaintiff is legitimate evidence in mitigation of damages, the action being for injury to character; defects of character would, properly and legitimately, reduce damages.

If the jury find the publication (proven) and that there is no justification, and that the defendant was actuated by express malice they will give such measure of damage as will fully compensate the plaintiff for the injury done his character, and such further damages as will punish the defendant for the infliction of the injury.

*If the justification is proved, then the plaintiff is entitled to like damages for the injury sustained by reason of the other charges against him in the libel.*

If they find the justification not proved, but no actual malice, the plaintiff will be entitled to the damages which naturally followed the injury to his character.

After hearing the arguments of counsel for the respective parties, and the charge of the court, of which the foregoing is the substance, the jury retired, and upon coming into court, rendered a verdict for the plaintiff for the sum of $100.*

## Body—Its Condition

Dr. Clark as medical counsel for Mr. Budge, relies on the following points for proof of death from hemorrhage :

"I should be confident in expressing an opinion that† the condition of the body of Mrs. B. externally,‡ the absence of marks of violence upon

*It will be seen by this clause of Judge Mullen's charge that there were in the libelous article other offences besides that of murder charged against Mr. Budge, and, Quere—may not the verdict for one hundred dollars have been rendered for the plaintiff by the jury, in accordance with the instructions given in this branch of the charge, as compensation for damages sustained by reason of the other charges in the libel, for which no justification or explanation was attempted by the defendant ?

† Externally, the body was mouldy when he made the examination, and there was no careful inspection at the time of death, hence he could not well make this statement.

‡ We do not know whether there were or were not marks on the body, and since "opening of the jugulars would remove many of the marks" we should not find them (had they existed at the time of death) 22 hours after the throat was cut (in death by suffocation or manual strangulation) see death by hanging, garroting by Thugs, or a handkerchief twisted tightly about the neck.

it,* the character of the wound in the neck,† the condition of the body internally,‡ the emptiness of the entire circulating system and absence of blood, together with the other appearances and condition of the organs and parts," enable to state that "she died from loss of blood beyond a doubt." Now to substantiate this, (ignoring entirely the condition of the lungs, the left of which weighed nearly 13 ounces, instead of 4.50 ounces; the right weighing 17 ounces instead of 5.50 ounces; also the all-controlling fact that there could not have been more than 2 pounds of blood lost, while she, from his own statement, contained 25 to 28 lbs. of blood, two-thirds of which(15 to 18 lbs)should be lost:) he makes the following statement:§ There was "no part of body in which blood had settled —no difference between back and front of body as to color." "If there had been blood in it (the body) the blood would have settled to the back."(M.) "This would have been obvious after four months." (T.) "Examined veins, arteries, heart, aorta, colon, bladder and vagina, all these with the uterus (were) bloodless. * * Examined arteries there (in pelvis) ; they were pale and bloodless; if blood (was) left in veins and arteries it would have been found there; if blood had been driven out * * (of them) by gas generated by decomposition, the arteries in (such) case (would be) stained arising from change of (the) blood."

With reference to this remarkable statement I shall characterize that portion which has reference to the blood vessels (where decomposition is tardy) as *untrue* and intended to *mislead* the *jury and profession*, and is not borne out by experience. The veins and arteries are not left abnormally red where the change goes on slowly as it must have done in this instance, where there was no appreciable change in the muscles or other tissues except brain. On the contrary, where the change goes on rapidly as it does in the fall, late in the spring or summer, then I conceive we might have this discoloration to a greater or less degree; and as to the condition of the body of Mrs. B. externally, the absence of marks of violence upon it," M. I have only to say that this body did not decompose and inflate with gas in the tissues as they ordinarily do during the warm season, but appeared normal except being covered with mould, and hence *he* nor no other physician could discover bruises or marks had they existed at the time of his or our examination, while a careful inspection at the time of death might have revealed as much and even more external ecchymosis as we found internal, and hence the *inconsistency* of this *assertion*. As to the other points I will discuss them all in another place, except the condition of the capillary system of the body,

* There is no discrepancy as to its character among the physicians who made the examination.

† Dr. Clark's colleague (Dr. Hogeboom) agreed with us as to the ecchymosed condition of the asophagus behind the larynx—also the ecchymosed and chewed tongue was admitted by all the parties. Dr. Clark and his associates assert that the large, small, and even capillary vessels were empty both in front and rear of body. They also differ from us as to the condition of the lungs. We all take same data as to weight and density—only that Doctor Clark states all the three pieces of right lung were apoplectic (circumscribed.)

‡ Dr. Clark and his associates state that all the vessels including the capillaries, were empty front and rear. We stated that the large vessels and heart only were empty, and as to the stains of blood on body, bed, &c., we take the statement of their witness who saw the bed and body at the time of death, (Dr. Olmstead,) and hence there can be no discrepancy on this point.

§ Quotations from the presiding Judge (Mullen) all of which I shall designate in this way (M). Judge Tremaine's notes I will designate with a (T.) The substance of both notes are the same, but in some instances one has given the expressions more in detail, so that I have chosen it in preference.

which he says was entirely empty, front and rear. Notwithstanding the assertion that "in every person no matter of what he died, there would be more blood than natural in the dependent position." (T.) This last seems truthful and exactly in accordance with our observation *i. e.*, empty—heart, aorta, and cavas—while the capillaries of the back were engorged, showing that the blood had been driven out into the capillaries by gas, but by a slow process which does not produce the discoloration spoken of, as a constant attendant on blood decomposition. He supposes this condition (discoloration of vessels) to be an invariable attendant on death when any blood remains in the large vessels. That this body did not bleed much there is no doubt, and hence the large vessels were full of blood at the time of death. Doctor Clark adopts the following course of reasoning to prove either that she did or did not bleed. His arguments are evidently intended for either exigency when he says, "The heart could not expel all the blood."

"This would arise from the fact that if the blood is below where it enters and discharges (to and from) the lung and there is no way to expel blood from the lung except the heart" * * and its "last pulsation would remain * * The parvagum have a certain control over lung * * and when cut lessen number of respirations and increase the quantity of blood in lungs." M.

In reference to this point, Dalton, in his Physiology, speaking of the effects of the division of both pneumogastric nerves alone, makes use of the following explicit language: "Immediately after the division of the nerves (alone) * * The respiration is hurried and difficult, owing to the sudden paralysis of the larynx and partial closure of the glottis by the vocal cords, as already described. This condition, however, is of short continuance; in a few moments the difficulty of breathing and the general agitation subside, the animal becomes perfectly quiet and the only remaining visible effect is a *diminished frequency in the movements of respiration* * * Death takes place at a period varying from one to six days after the operation, according to the age and strength of the animal; the only symptoms accompanying it are a steady failure of the respiration, with increased sluggishness and indisposition to be aroused * * The immediate cause of death, after this operation, is the altered condition of the lungs * * It is not at all certain, however, that these alterations in the pulmonary tissue are directly dependant on division of the pneumogastrics, which is performed in the middle of the neck. The filaments of the inferior laryngial nerves are also divided and the narrowing of the glottis produced by their paralysis must necessarily interfere with the free admission of air into the chest."

Now, when the carotids are both cut simultaneously with these nerves (pneumogastrics) the blood is poured out rapidly and the animal or man, as the case may be, dies of hemorrhage and hemorrhage alone, while if in conjunction with this, the trachea is severed there is no obstruction and the animal dies by hemorrhage, as before stated, and still no "concurrence of suffocation," with "hemorrhage," since death takes place before this ("concurrence") can exist; and as to the influence on the lung (in Dalton's experiments) it is induced by closure of the glottis. Cutting of the trachea, however, obviates this. The 2d condition in Dalton's experiments, is the gradual consolidation of lung tissue; this cannot take place when all the parts are cut simultaneously, since the person is dead and cold long before such consolidation can take place, while Prof. D. makes no mention at all of the heart's being affected by

these nerves. Still farther, Dr. Clark states that "cutting the parvagum, Carpenter says will not disturb the regular beats of the heart, (and) I concur in that." In another paragraph he states, "cutting the parvagum nerves makes the pulsations of the heart quicker and weaker," M while the truth is, that where *all* the *parts* are *cut* (anterior to the vertebræ) *simultaneously*, it does not *affect* either the *heart* or *lungs*. Further on he states as an additional reason for the small amount of blood lost, that the "heart would cease to beat in perhaps 30 seconds after both of the carotids are cut." M Now, taking 75 beats to the minute and 1½ (the data claimed by Mr. Budge's counsel) ounce expelled at each pulsation, would make a little over 3 lbs. of blood lost, instead of 25, his data of entire emptiness of the capillary system. This even added to the following statement that death is often produced "by the joint concurrence of asphyxia and hemorrhage,"* M and there would still of necessity

* I add this to show what kind of cases Dr. Clark has to resort to show this "concurrence." One at a glance can see the deception practiced in offering these cases as the counterpart of the case of Mrs. Budge—when all the tissues anterior to the vertebræ were severed and hence this "concurrence" cannot take place. I quote all he says on the subject. (See Academy of Medicine Bulletin, page 336.)

"SUFFOCATION AND HEMORRHAGE CONCURRING.

"The fact that suffocation may occur in cut-throats seems to have attracted but little attention from medical jurists, yet the fact is distinctly announced by several authorities, and is recognized in some of the reported cases. This may occur in either of two ways: by the retraction of the trachea, and its obstruction by the soft parts, or by the filling of the trachea with blood from the wound.

"Briand and Chaudé (*Legal Medicine*, p. 309) state that if the trachea alone is cut, the inferior end retracts into the soft parts, the air no longer penetrates to the lungs, and death occurs from suffocation; if vessels are wounded at the same time, death is produced by suffocation and hemorrhage.

"Orfila (*Legal Medicine*, ii. 506) states, "when the trachea is completely divided, the inferior end is retracted and hidden in the neighboring parts, and the person dies of suffocation."

"In the case already referred to under the head of sprinkling observed by Adelon, Dubois, Boyer and Rami (*Annales d'Hygiène*, xv. 394) these observers all recognize the fact that the blood wlll flow into the trachea and cause asphyxia. It is stated in their case that the trachea was retracted one inch, and that blood was found in the air tubes and assisted in destroying life. The lungs were much engorged. In a case recited by Devergie (*Legal Medicine*, ii. 117) homicide was committed by cutting the throat with a pair of scissors, The trachea was completely divided, as was the vertebral artery. Death was produced by hemorrhage and asphyxia, blood being found in the bronchial tubes.

"In the case of the great wound already referred to, reported by the same author (*Annales d'Hygiène*, 418) it is stated that "the blood was introduced into the right bronchus only, and had penetrated into the last ramification of the tube; nothing similar was observed in the left."

"In Leuret's case (*Annales d'Hygiène*, v. 236) already cited, that of the officer who cut his throat with embroidery scissors, the trachea and right carotid artery were completely divided, and the left jugular vein and œsophagus partly, and blood had penetrated into all the air tubes.

"In a case of homicidal cut-throat reported by Bayard (*Annales d'Hygiène*, xxxix. 433) the trachea and thyroid arteries were divided and the trachea and bronchi were filled with frothy blood, and the lungs were congested.

"The fact that death may occur in this manner, and that asphyxia may play an important part in cut-throats, through blood introduced in the manner here indicated, is recognized by Taylor (p. 296). He says, if in case of a wounded throat, blood should flow into the trachea, it may cause death by asphyxia. In the *case under* consideration, the *opinion* has already *been expressed* that *blood* did in *this manner enter* into the *breathing tubes* and *lungs more* upon the *right* than *upon* the *left side*; and *while* it is *admitted* that *this* would be a *sufficient cause* for *engorgement* of the *lungs* had such *engorgement* really *existed*, the statements already made *show* that the *quantity* of *blood contained* in *these lungs* was *really less* than is *usually found* in *death* from *common causes*; at the *same* time it is altogether *probable* that these *organs* contained a *larger quantity* than if the *person* had *died from* wound of the *carotid arteries* without *opening* the *wind pipe*." (See note A.)

Note A.—Careful experiments show more blood in the lungs of animals slaughtered by cutting the wind pipe simultaneously with the arteries, by transfixion of the neck (leaving the wound valvular) than by cutting all the tissues from without, inwardly.

be a large amount of blood remaining in the system; hence, (on his theory) the body could not be "entirely empty, front and rear," and "the veins colorless." Now, following up this same train of reasoning to account for this condition, he says that "it is recorded that the loss of a pint of blood destroys life" * * "The sudden loss of blood has a great deal to do with producing death."* M The question would naturally arise, what has the sudden loss of blood to do with this case? If this *body* was in the *condition* in which it was *said* to be by this *medical adviser, (entirely empty, front and rear, capillaries, &c.,)* then to account for the blood not *spattering* or being lost entirely in the *direction* indicated by the *laws* of *gravity*, he says "the discharge from the arteries would be into the wound and against the upper wall of the wound" * * The principal discharge would be from them against upper wall of wound, and the blood would fall back and flow out of each side and spatter about. The great mass of blood running out would extend from body from 4 to 6 inches. The blood would run down towards hips, *coagulate* and soak through. * * No *spattering* from *carotid arteries;* when cut, it (the blood) would *dash about* but *not spirt*; *no spattering* or *spouting* except from the *superficial* arteries (See cases attached to this paper.) which vary in size from a *needle* to so small that you can

* I will quote all Doctor Clark says in his report of this case before the Academy of Medicine (p. 340), on the subject of the loss of blood, and give the six cases which seem to have been intended as analogous to Mrs. Budge. What that analogy is, I leave for the readers to judge from inspection of the case.

"At one stage of this trial, while it yet appeared that the quantity of blood lost was inconsiderable, it became of importance to ascertain what was the smallest loss that had proved fatal in the recorded cases.

1. In the case of Augustus Dautun (Beck, ii. 141), murder was committed, and the body afterwards cut to pieces. Dupuytren stated that the wounds in the chest were mortal. The thorax contained four pounds of blood.

2. Mr. Watson mentions a case (quoted by Taylor, 298), in which the internal mammary artery of the left side was divided by a stab in the chest. The man died on the ninth day, and four pounds of blood were found effused in that side.

3. Mr. Gutteridge (*Lancet*, Oct. 31, 1846, page 478,) reports the case of a woman, aged 36 who received a kick from her husband in the lower part of the abdomen while she was in a stooping position. Seen by Mr. Gutteridge in three-quarters of an hour, she had lost from three to four pounds of blood. She was sinking, and expired a few minutes after his arrival. The wound was entirely external, the left crus clitoris having been crushed so as to expose its cavernous structure.

4. In Beck (ii. 365) it is stated that a young man, sixteen years old, was stabbed with a nail rod and died in three minutes. The blood lost was one and a half pounds. The thoracic aorta was found wounded.

5. In the instance already cited (Beck, v. ii, p. 134) on the authority of Adelon, Dubois, Boyer, and Rami, it is reported that one pound of blood was lost. In this instance, however, it will be remembered there was congestion of the lungs, and blood in the air passages.

6. In Beck (ii. 348) it is reported on a Boston authority that a prisoner cut his throat, and died with the loss of a pint of blood. It is suggested, however, in this case, that air might have entered the jugular vein.

It would seem, then, that persons whose throats are fatally cut may die on the loss of a pound of blood, and it does not affect the question at issue that a circumstance other than the mere loss of blood aided to produce the death. The question is, What is the smallest loss of blood, which of itself alone, or complicated with other circumstances incident to such wound, may prove fatal in a cut throat? The question of how much blood the body naturally contains, though raised in this case, is in no manner essential to the issue."

Why not? If this body was in the condition stated by him—i. e., every part empty, "the lungs and probably brain excepted," which would involve the loss of 12 to 15 pounds of blood, and hence the amount of blood is, in a special manner, "essential to the issue," since they can have no possible bearing in a case where both carotids are cut, and no obstruction exists to the loss of blood, most of these were punctured wounds, and the blood flows in the cavity of the pleura or peritoneum, or when the wound is valvular (case 5), it may flow into the trachea and produce suffocation. Since, as he says, "My researches have lead me to the *inference* that when *both carotids are entirely divided*, the *spirting* or *sprinkling* of *blood* from *them* is *almost nothing*" (Idem, p. 344); so in the case of Mrs. Budge both carotids were cut, and hence she must have lost only a small amount of blood, which is inconsistent with his entire theory of the condition of the circulating system.

scarcely see them. * * And "if *blood* is found on the *face* of a suicide it would come from the small superficial arteries and from the lower lip of the cut M." This anomalous statement that "the *carotids* would *not spirt*," would be worth a passing notice were it not of itself quite too ridiculous, and also that some object was to be attained by this statement, which seems evidently intended to account for the *absence* of profuse *spirting* of blood, such as would be made by the action of the *carotids* and described by surgeons (Mott and Gross), while to account for the few *small pin-head spatters* on the *face* he makes the *minute superficial arteries* to *spirt* blood over this part—still forgetting that the "*carotid arteries do not spirt.*" Again, he states that "if *one* carotid artery is unsevered (not cut entirely off) the blood will shoot about very much. If cut square off, and no obstruction, it would not go straight but a few inches, * * in all 2½ to 3 feet."* This admission is intended probably for the obvious purpose of accounting for any blood-stains which could not be the result of gravity or bloody fingers (forgetting that when both *carotids* are *cut they* do *not* "*spirt*"). He further says that the "head cannot be turned so as to let artery discharge (its blood) outside of the neck." This, in his opinion, is the main reason

*In reference to the flow of blood from cutting arteries, Doctor Clark's (Bulletin Academy of Medicine) says:

SPRINKLING OR SPIRTING OF BLOOD.

"The sprinkling or spirting of blood from wounds in the neck appears to have attracted but little the attention of medical jurists. In by far the largest proportion of cases it is not mentioned, even when the description is in great detail. In this case, however, it becomes a question of importance, on the theory that the woman was suffocated and that her throat was cut afterwards. It was urged that in such a case the spirting of blood would be little or none at all, while on the other hand it was claimed that if the throat was cut in full life the blood should have been thrown to a considerable distance upon the bed, and even upon the walls of the room. (See Note A.) It was even claimed by one of the medical witnesses that a cut made in this situation, the heart being vigorous, the head in the line of the body, the body lying upon the back, that the blood would have been thrown from each carotid past the lips of the wound, past the jaws and head, and would have struck in full force against the head-board. *My researches have led me* to *the inference that when* the *carotids are entirely divided* the *spirting* or *sprinkling* of *blood from them* is *almost nothing*, (See Note B.) but that when either of them has been partially divided so as to give such direction to the current of blood as that it will flow forward, unobstructed by the lips of the wound, then the jetting or sprinkling of blood may be considerable. Thus in the case already quoted from Marc, of the young man who cut his throat standing before a window, the furniture and window were spotted with blood to the height of about three feet, an overturned chair was sprinkled with blood, a night-cap on a step before the window, raised about one foot, was spotted on its upper side. In this instance neither carotid was entirely severed, both were cut into "and the right half cut, the left more than half cut."

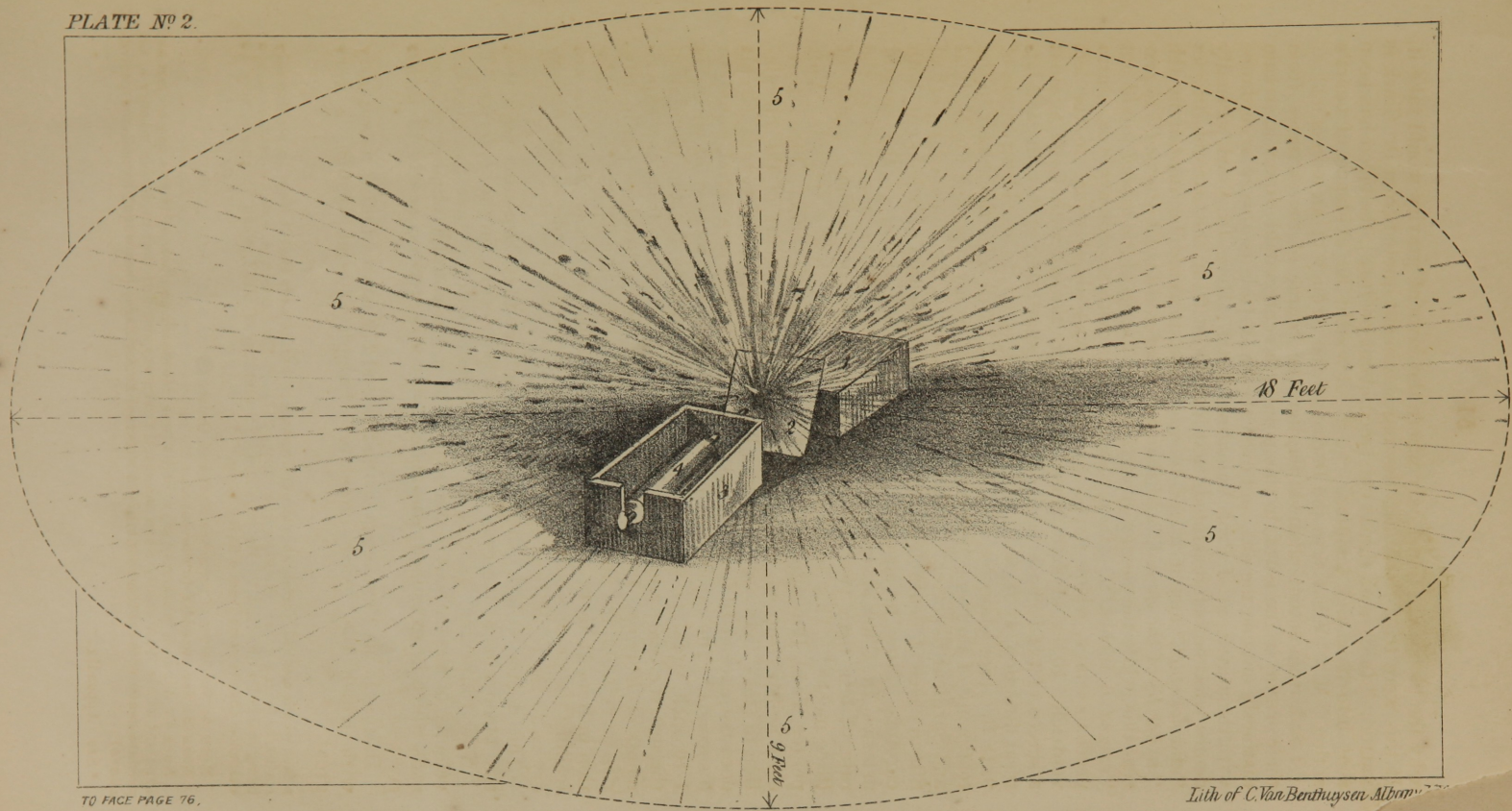
"In a case reported by Rami, Adelon, Dubois, and Boyer (*Annales d' Hygiene*, xv., 394; *Beck*, ii., 134,) in which only about one pound of blood was lost, the throat was supposed to be cut while the woman was standing a short distance from a wall; the wall was sprinkled to the height of three feet four inches at one spot, and at another spot to the height of two feet six inches. In this case the right carotid was cut in two-thirds of its circumference, on its inner side.

"In the case of Mrs Duval, referred to by Beck (ii., 214), reported by Devergie (*Legal Medicine*, ii., page 168), the larynx and hyoid bone were broken, the superior thyroid artery was cut, but the carotids were not. The blood had been thrown in jets over the features, but it is not remarked that it was thrown upon the furniture. This was a case of homicidal cut-throat; the thyroid artery was enlarged to supply an enlarged thyroid gland

"In the case of Sellis, (See Note C.,) the valet of the Duke of Cumberland (*Beck*, ii.), there was a wound in the throat six inches long, dividing the arteries on both sides, whether wholly or not, is not stated. There was blood on the walls of the room, on the curtains, washstand, basin, and drawers. The body was extended in bed, but Sellis's cravat was cut in several places. On the duke were two scalp wounds, his arm was wounded, his little finger nearly cut off, and there was bloody water in the basin in Sellis's room. Under these circumstances it would seem at least questionable whether the blood upon the walls, bed, and furniture was from the arteries of the servant or the master. These are all the cases of cut-throat that I have met with in which the subject of sprinkling has been considered of sufficient importance to have been described in detail.

"Taylor (page 286) makes the following statement. "The sprinkling may be expected only when the wounded artery is small, or when the blood is effused at a distance. This is

PLATE No. 2.




TO FACE PAGE 76.

Lith of C. Van Benthuysen Albany

1. Rest for Screen, 2. Screen 4 × 5 inches. 3. Box for Syringe. 4. 8.oz Gutta Percha Syringe, 5.5.5. The manner in which the Blood spatters from the Syringe

why the blood was found only where the laws of gravity would take it. If this were true, then the following sentiment quoted from Dr. Clark is untrue: "In case of throat cut (recumbent posture), the blood has been sent into hair and temples, * * it would be evidence of heart's action." M. (What says the Doctor of the agency of an assassin?)

I find, from actual observation, that the course of the arteries from their origin, in the aorta, to this point, (the cut) would direct a stream distinctly outside the cut, and even the head, (this is also in accordance with the statement of Prof. Valentine Mott). Here Dr. Clark virtually denies what he before stated, that the blood from the carotid *arteries* "did *not spirt*," and if it *did* to *any extent* it *would* be *stopped* by the "*upper lip* of the *wound*," and that the "*head could* not be *turned*" to *prevent* this, while the *counter spattering* from the *lip* of the *wound would* not "*exceed* 6 inches."T. In my experiments with an ordinary 8 oz. gutta percha syringe, where the power applied was about equal to the left ventricle, 16 oz. of defibrinated blood were thrown with force against a screen of 4x4 inches; there was counter spattering of 9 ft. in each lateral direction, 4½ ft. front and rear, equal, in all, to an oblong circle of 9x18 ft. (See plate No. 2.) On this point I will refer the reader to the testimony of surgeons Mott and Gross; also to my report in the Medical and Surgical Reporter,*.(vol. 6, p. 377), also in the annexed report of fifteen cases of death from cutting of carotids, two of whom cut both carotids. Now to account for this anomalous action of the carotid arteries, Dr. Clark states that the blood runs "through arteries at the rate of less than two and five-twelfths inches per second, inside of three inches." This is equal to about one foot in five seconds. Carpenter, Todd, Bowman, Kirk and Paget, all say, (in effect) blood travels 1 foot per second, in arteries, and the entire circuit of the circulation in (less than) one minute. The whole arterial and venous circuit does not exceed 10 feet, not more than 5 of which is arterial, equal to 5 seconds. The capillaries, 1 inch per minute, the longest of which is 1-10 inch, equal to 6 seconds, leaving 49 seconds for the circulation through the heart and veins. Now, when it is known from the experiments of Herring, Poisieulle, and J. Blake, that substances put in arteries or veins of the animal, performed the entire circuit of the circulation in from 15 to 40 seconds, and hence, either all these observers are leading the profession astray or else Dr. Clark has made a new discovery as to the rapidity of the circulation.

The doctor, (Clark) says, "I don't believe that Carpenter says that the blood runs at the rate of one foot per second, in the arteries." T.

Now Carpenter, quoting from Volkman, states, "that the average velocity of the current in the *carotids* of a considerable number of *mammals* which he examined, was about 300 millimeters or nearly 12 *inches per second.*

Dalton, in his Physiology, page 271 and 272, states that "the rapidity with which the blood circulates through arterial system is very great. * *

a fact which medical jurists should not overlook;" but he adds that it may be accidentally sprinkled from a vein. He says also (page 277), "The hand and weapon cannot escape being marked with blood." He says also, "Sprinkling of blood, when it exists, may be evidence that it came from a living body."

NOTE A. See letter of Surgeons Mott and Gross.

NOTE B. See appendix to this paper.

NOTE C. All good authority says Sellis was murdered and hence its analogy is just as apparent as his other cases; when one carotid only was cut and that in such a manner as to produce death without the possibility of external hemorrhage, (see wound by nail-rod quoted above)

* See Appendix.

Volkman found as the average result of his observations, that the blood runs in the *carotid arteries* of warm blooded *quadrupeds* with a velocity of 12 inches per second. * * * The velocity of the venous blood as compared with the arterial, is therefore, as 2 to 3, or about 8 inches per second. * *

This expresses with sufficient accuracy the relative velocity of *arterial and venous currents* at corresponding parts of their course. * * * The rate of movement of blood through the *capillaries* is rather *less* than $\frac{1}{30}$ inch per *second,* or not *quite* 2 *inches per minute.*

To further demonstrate the rapidity of circulation, Dalton quotes from Herring, Poisieulle and Matteucci, who found by experiment that the entire circuit of circulation was performed

"In the horse in 28 seconds,
In the dog in 15 seconds,
In the goat in 13 seconds,
In the fox in 12½ seconds,
In the rabbit in 7 seconds."

When it is known that *man* contains about *twice* the amount of blood in proportion to his weight, as that in any of the warm blooded animals; hence, we say, their circulation *ought* to be *more rapid, while mental emotion* or "*insanity*" *should* increase the heart's action, and hence give more impetus to the flow of blood.

Still further to account for the absence of blood, Dr. Clark states: "The artery when cut entirely off would retract into the flesh, and would break to a considerable degree the current of the blood." T. Further on he acknowledges that the "carotids retract the same as the cut, and the wound gapes immediately, and the obstruction to the flow occasioned by the retraction would not be appreciable." T (Consistency, thou art a jewel!)

Now, as to the carotids, they either do, or do not spirt, as well as "superficial arteries," and that, too, furiously, and cover the head, body, and portions of the room, furniture and walls, and in proof of this, I need only quote from the testimony of the *venerable American Surgeon, Professor Valentine Mott,* on the same data as that from which the medical counsel for the defence argues.

He says, (in substance) "I have seen much blood flow in surgical operations, and in suicidal acts, and when all the great vessels have been divided, and all *cases,* the *flow* is *tremendous.* When all the vessels of the anterior part of the neck are divided in the sitting posture, the flow is *more terrible* than you have any idea of, for *terrible* it is, to a person unused to blood. And the quantity of blood lost would be *tremendous,* under such circumstances.

"In this position, the flow of blood would be very great, and extend very far." "If this same person were lying down in bed, with chin elevated and head depressed in the pillow, not only the hand inflicting the blow would be very bloody; *everything around would be very bloody.*"

"If the flow of blood was obstructed, the *display* of blood would be very great, too; there would be a great *display* of *blood* on the *face* and *breast,* and *bed,* and *bedding around.* The blood would fly in *all directions,* to a *great extent,* and if the walls were at a reasonable distance, the blood would hit them. I do not think any one could cut this throat as it was cut, without making a brilliant display of blood about the breast, face, head-board and walls above, hand, arm, etc., all would be very bloody. Great muscular force is required in any position to cut the left carotid with a razor—(much more to cut both, and the bone, as this was cut).

I cannot conceive it possible that death should take place from a wound like this, without the agonies of death. I mean movements and contortions of the body. It is impossible, in my humble judgment, that it should be otherwise. In violent deaths great disturbance and contortions follow, when both carotids are cut, the head thrown back and the wound gaping as this did. *The blood would spirt outside* of the *wound very distinctly.*" T.

The contortions here spoken of would have disturbed the bed, while this was entirely undisturbed. So say all the witnesses, and the defence try to get by this, by saying that the contortions were confined to the arms and jaws.

On the subject of the spurting of blood Dr. Gross says, "It is *impossible* for any person to cut the large vessels of the neck without being inundated with blood. If Mrs. Budge had been alive at the moment her neck was cut, the blood of the carotid arteries would have spirted about in every direction, soiling not only the bed and body clothes, but also the floor and probably the walls and ceiling of the apartment. I assume that this circumstance alone is amply sufficient to establish the fact that she had ceased to breathe when her throat was cut. From the position of the razor and from the almost entire absence of blood upon it, to say nothing of the peculiar shape of the wound, I cannot suppose that it was the weapon used to kill Mrs. Budge."

### In what Position was this Cut Made ?

Doctor Clark states: "Think there is no attitude in which a third person could (be placed to) make this cut."

Though he confesses that the "position of body after death is no evidence of its position before." * * And it would "not be difficult for a person behind her when arm moved as hers did to make this cut." M Now Dr. Clark makes the character of the cut a special reason why it could be made only by herself, and in reference to this he says: "There was a depression the width of a finger below line drawn from (anterior) surface of vertebræ to left termination of cut in skin and there is no motion of hand (homicidal) that would make this dip on left side. A person on the bed to her right could not make this cut, and hence it would come out with a tail. M

The reason why he says it was cut from left to right is * * that it was so deep into the tissue, ran over the bone, and the manner it came out is what satisfied me that it was (cut) from left to right." * * Looked particularly at (the) wound; at left end it passed directly down into neck at right angles with skin. * * On right side (skin) cut ½ inch further than tissue," and * * *I could tell* whether (it was) cut from left to right or the contrary. No other person could make this cut from *left* to *right.* Not possible to have skin and tissue rolled back before weapon when drawn from right to left so as to sweep back and leave the wound of the shape it was on the left side." M

Now this is the very condition that we have contended for on the theory of homicide, and a reference to the letters of Prof. Taylor and Gross will fully demonstrate this point, while they show that we are right and Dr. Clark is wrong, and as to the especial effort that Dr. Clark makes to shew that as a general rule suicidal cuts have a direction a little down to the right, I have only to say this direction is not uniform by any means, while homicidal cuts made in any of the four designated positions, the direction is uniformly downwards to the right or upwards to the left—just the counter part of this cut in Mrs. Budge's neck.

With reference to the skin being cut farther than the tissue on the left side, Dr. Clark says: "In case of suicide the skin is cut farther at the end where the weapon comes out." M

The medical counsel (Doctor Clark) quoting from Taylor says that the cut usually terminates in the skin farther than in the muscles. "The fact that this cut went directly in on the left side, and popped over the bone and out, straight on the right side is evidence to me that it was made from left to right." T. To this Taylor says, "Assuming that the incision was made from left to right, the fifth vertebra must have been implicated in the incision *before* the weapon was carried to the right side at all, and yet it is stated that on the right side of the neck, there was a cut in the *skin* one quarter of an inch further than the tissues wounded."

"This fact proves to my mind a deliberate withdrawal of the weapon, quite inconsistent with the fact that the blood vessels on both sides of the neck had been divided, and the periostium and osseous structure of the fifth cervical vertebra had been cut, or penetrated."

Now after the Doctor (Clark) stating that this could not be cut in any position by any one but herself, he further says that "Mrs. B. could make this cut with her right hand either lying down or sitting up. *Lying* on *back* does not *interfere* with the *action* of the *arm*, less when lying on a (feather) *bed*. M This seems too *preposterous* for anything: that a person lying down on a feather bed could cut the *neck half off and into* the *bone with one stroke* of a *razor*, and that it could be done *lying* as well as *sitting up*, and further that a *feather* bed *facilitates* the movements of the *arm.(?)* Then, to make assurance doubly sure, Doctor Clark states that "moving shoulder and not elbow the throat could not be cut *only* at a *single* point; the cut would naturally be made by muscles *below* the shoulder." My anatomy teaches me that the shoulder blade is moved by the trapezius, &c., upon which we lie, and that in making the motions spoken of by him, the *scapula* moves through a space of about 3 *inches* and carries the arm with it, and in this way the hand describes the segment of a circle before spoken of, and hence there are no muscles below the "shoulder" which have any important action in this cutting, so that well can he say, *that* "*moving* shoulder and not elbow the throat could not be cut only at a *single* point," and if he means by below the muscles of the arm, which are to perform their herculean task, I can only say that he is expecting entirely too much of them inasmuch as without the full movement of the scalpula towards the spine there would have to be full flexion of the fore arm on the arm, and the hand on the fore arm, in order to make the cut. Taylor says, "Taking the depth, extent and direction of this wound in the neck it is not such an one as a person could inflict on himself or herself, *while lying on the back in a recumbent position.*

"The large blood vessels on each side of the neck were divided; assuming that a suicide might have power, after dividing the carotids and jugulars on one side, to carry a razor through the trachea, and œsophagus, as well as through the blood-vessels on the other side, I am decidedly of the opinion that there would not have been the power to shave off the left transverse process of the fifth cervical vertebra, or penetrate the osseous structure." "In the recumbent position, such an act would require the exercise of a great muscular force at a very great disadvantage in the position of the right arm, for using the required force."

Doctor Clark, speaking from rule, makes the following statements: "That in case of suicide, the instrument is either grasped in the hand, or else lies near it. It is consistent with the deed of a suicide, if

found at the side," T, he further says, "In case of suicide, the razor may be in the hand, or near it, and Taylor says that it is consistent with suicide to find the razor in the hand or by the side." T. By reference to Taylor's letter to me, it will be seen that this is not true in this form of cutting. This razor was found under the fore-arm and nearly bloodless, and hence does not come within the range of a suicidal condition. Geoghegan says of the instrument, "I should have farther expected that in case of suicide, followed by rapid death, and when the extent and character of the injury would indicate a most determined effort, the weapon would have been found grasped in the hand, as it usually is." Taylor says: "The weapon, on the view of suicide, should have been in the hand, considering the enormous muscular power which must have been used in a cutting which involved the body of the vertebra, if not in the grasp; the part with which the weapon was held should have been close to the palm." Dr. Clark says, "suicidal cuts made by a right handed person, are either transverse or lowest upon the right side, and the rule is that the cut is longest where it is drawn out." T. Now this depends upon the termination of the cut, the force with which it is made, while the direction of the cut is more generally up to the right than the left, while few make the cuts beyond the trachea, where the cutting is done in this part of the neck. But when the cut is made under the chin, it might be of great length, and might terminate at a point opposite its commencement. On this subject Dr. Mott says the cut is generally above Adam's apple and too high to be effectual. Geoghegan says, "the seat of the wound is unusual, being commonly to one side more than the other, and generally above the os hyoid." Again Dr. Clark says: "It is laid down in the books that if a razor is found in the hand of a person with the throat cut, it is presumptive evidence of suicide, while if the razor is loose in the hand, it is regarded as evidence of homicide, but not if it is laid around, near the hand." On this subject Taylor says: "How came the right hand to be in a position only slightly bent, the weapon not grasped within it, but lying on the bed 6 or 8 inches from it." Again Dr. Clark says: "There is a rule laid down and deducible from the books, that suicidal wounds are of variable extent cutting all the soft parts, and going back into the back bone." T On this subject Geoghegan says: "Nor have I ever seen or read of a case of *suicide* where a portion of the bone was sliced off."

Another strong point insisted on by the medical counsel was that of insanity, and that insane people make extraordinary cuts, and if so, their circulation should be increased *pro rata.* Admitting all this, and also that Mrs. B. was subject to aberration of mind (no matter whether this was from a *diseased brain, domestic trouble,* or *drugging)* the *physical facts and conditions remain* the *same,* and the condition as to *blood, bed* and *body* would be the *same* as if the *throat* was *cut* when *sane;* so that *insanity* has *nothing* to do in the *solution* of this *matter.* Then, I ask, can a *cut* of this *character be made* in the position in which this body was *found,* by a right-handed homicide standing in front, with his left side to the bed, or by placing himself in any position can he make a cut similar in character to this? I answer, Yes. It is the most natural way possible. In opposition to this I will again quote from Dr. Clark, as the medical counsel, who says, "In my judgment it would not be *possible* for *any person standing in front of that bed with a knife or razor,* at one *stroke to make* that *cut as it was made.* It *would* be *impossible* in the very *last degree* for a *right-handed person to have made* this cut *towards* the right." T. Surely, if a *feeble* woman *could make such* a cut on *her-*

*self*, at *one stroke with a razor*, from *left* to *right*, how much easier would it be for a *man*, as a *homicide*, to do the *same*, if he were on the *bed behind* her, (as there was not less than 2½ feet of space from her body to the wall), or *astride* the chest, or standing in *front* of the *bed*, or at the *head* of the *bed*. He could accomplish the act more readily than a *weak* woman could do the same upon *herself*, and that, too, *on* her *back*. The opinion that it could not be cut from the *front* of the bed, is quite too *preposterous* for comment; though, to satisfy myself that it could be done in the most natural manner possible, I placed the body of a dead female in the described position, placed myself in front of the bed, and with a *razor* cut the *throat*. The result was, that the *cut* was *upward* to the *left*, and in fact it presented nearly the *same characteristics* as *this* (Mrs. Budge's), only I had to make the *second incision* before I *could complete* the *cut* to the *described extent*. Now, *if a strong man cannot well* make so *extensive* a cut upon another, at one stroke, and that, too, in the most *favorable* position, what could be expected from a *feeble woman* on *herself*, and in the *recumbent posture* at that. This fact evidenced to my mind that the throat *was not cut with a razor*. Again, he says: "I think if a person had been behind her, it would not be difficult for him to make the cut, if his right arm was in the same position" M (as hers). And again, Dr. Clark, as medical counsel, says: "I know of *no position* in *which this cut could* be made by *any other person*, because the cut was of a *character* that a *knife* in the hands of *another could not imitate*" T. Any one familiar with the subject can see at a glance the FOLLY of the assertion. They can see how readily it may be done in several *different* positions: (Plate 3.) 1st. Standing in front; (Plate 4.) 2d, astride the body; (Plate 5.) 3d, on the bed in rear; (Plate 6.) 4th, moving down the bed from the head, and standing above —in *every* instance the *cutting* would *be downwards* to the *right*. *The last* and perhaps most *ridiculous reason*, (after stating the *absolute impossibility* of a *homicide* effecting this cut), is, that "if *she had been cut by a person from behind, it would have left blood elsewhere*" T; as if a murderer could not arrange matters of this kind after the completion of his crime. And as to *blood*, I think the *impress* of a *bloody* hand on the *face* and *pillow is quite too much of itself* to be consistent with her *almost bloodless hands;* and any one at all conversant with the effect of *blood* on the *skin* knows *too well* that it is like the *bloody stain* on the *hands* of "*Lady Macbeth*," "*it will not out*" *simply* from its *contact* with *dry cloth*, so that there would still be a *strong stain of blood* left on *this entire hand*; and farther, there is *no reason* why an *assassin* who *cuts* the throat of a *dead person* should leave *more blood* on the *bed* than a *suicide* would, where the *blood spirts furiously*. Again, Dr. Clark states, "that a hand that could raise a 25lb. weight could make this cut (on themselves) with a razor." On this point Prof. Charles A. Lee says: "The depth and extent of the wound argue a determination of wrist possessed by very few suicides, especially females; and I do not believe it possible that such an incision could have been inflicted by the deceased. The case (on the theory of homicide) in my judgment could hardly be strengthened by any collateral circumstances. The supposition of suicide I should not suppose could be entertained at all by any person." "There is not a shadow of doubt that this incision was inflicted after death."

Doctor Clark expresses the degree of motion in order to account for the blood in front of the body on the sheet, also the *prints* of a *bloody hand* on *face* and *pillow*, after the effort of cutting, when he says, "In my opinion Mrs. Budge had the power to move her hand after the cut

PLATE No. 3 POSITION No. 1

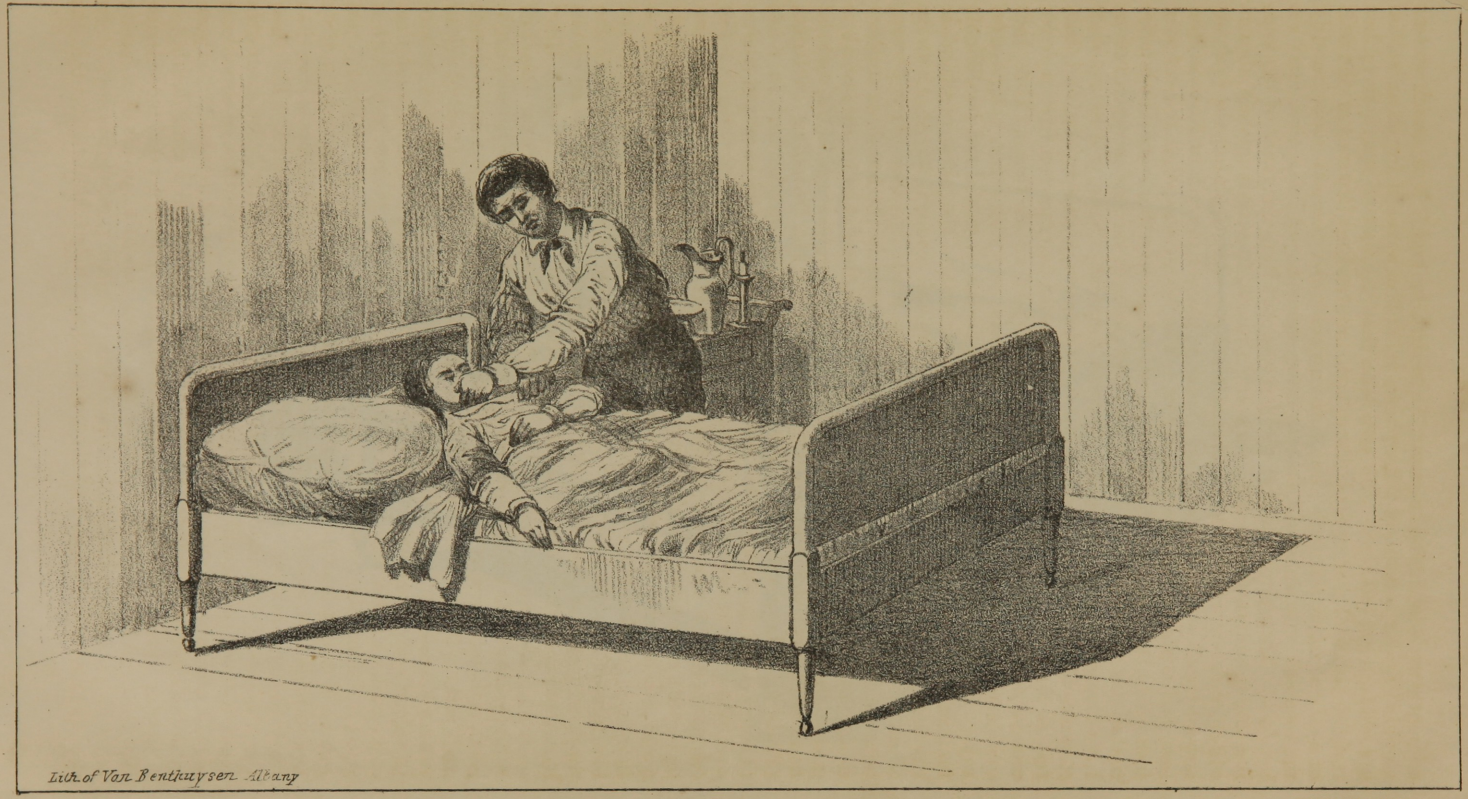



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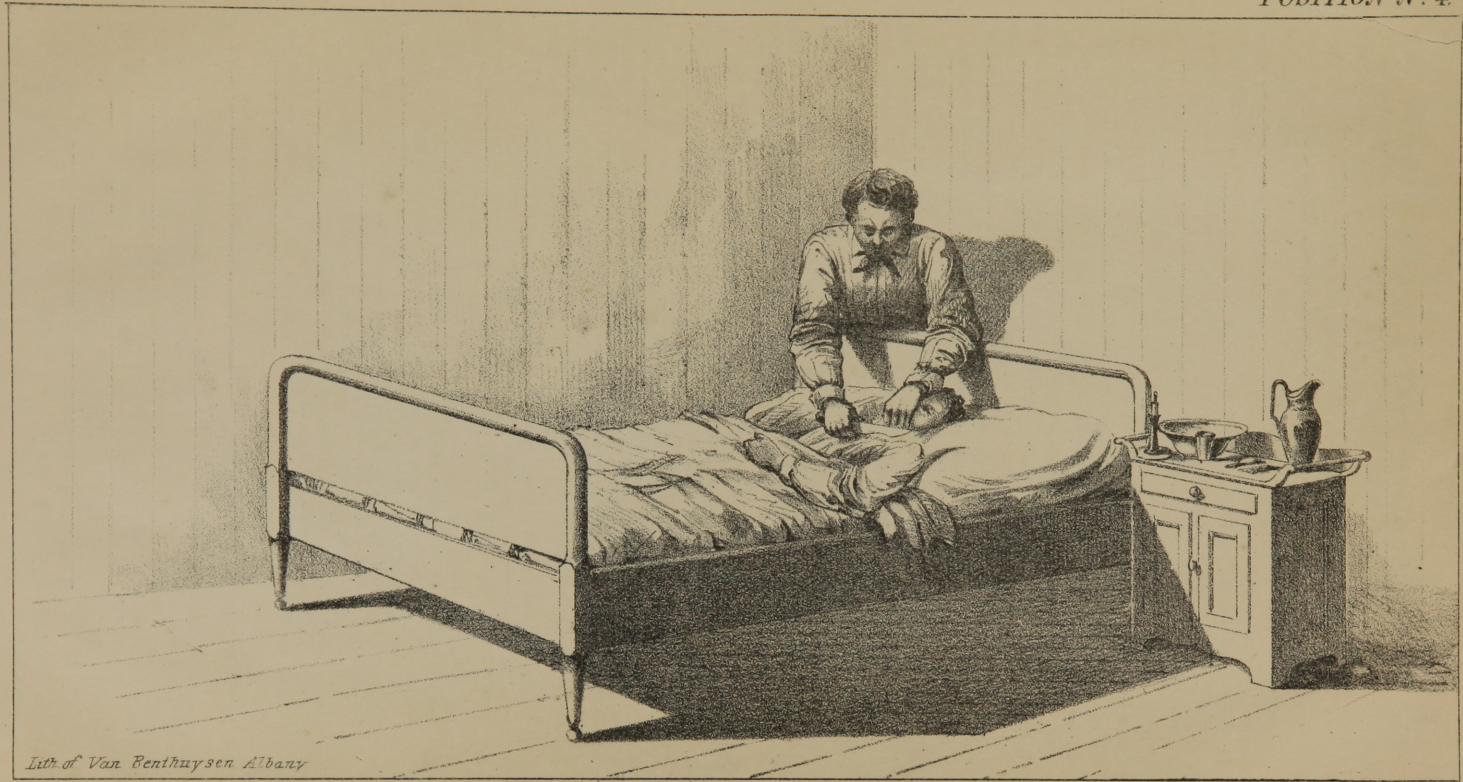
PLATE Nº 4. POSITION Nº 2.


TO FACE PAGE 82.

PLATE No. 5. POSITION No. 3.


TO FACE PAGE 82.

PLATE No. 6. POSITION No. 4.

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was made first, *voluntary* and then according to the rule, would be *involuntary* motion* M Here the great effort seemed to be to shew that these movements were confined to the arms. If it is true that we have *voluntary* motion, then there is still *action, life* and *circulation*, with *arteries spirting* with *great fury*, and in the *involuntary spasmodic action* which follows, the *bed* would be *disturbed* (this it will be remembered was wholly undisturbed, and remained tucked in at foot and sides) to a *considerable* degree, as it is quite too *ridiculous* to suppose that these *movements* could be confined to the *arms* alone.

On the theory of *suicide* without *voluntary* motion, Doctor Clark finds it difficult to account for all the stains of blood on *face* and hands—on the *right* hand *pillow*, &c.—the almost *bloodless* hands—the saturated spot in front—position of hand and razor. The above opinion of Doctor Clark on the view of suicide, is inconsistent with the one advanced by him before the Grand Jury, which was to the effect that she (Mrs. Budge) was sitting up—held the sheet up before the neck—caught the first gush of blood—fainted and fell back in bed. When the cutting was done, we say that she (Mrs. Budge) was in the lying position, while the medical counsel (Doctor Clark) before the Grand Jury says she was sitting,†

*Doctor Clark, in his Academy of Medicine—reports of this case (page 333)—makes the following statement, from a review of which it will be seen there is no analogy to the Budge case, hence well may he say, "*it is not evident in any of these cases that both carotids were* cut." In speaking of "Movements, voluntary or involuntary," he says: "Regarding the power which this woman might possess after inflicting this wound upon the throat, of passing the hand over the face, placing it in one or two spots on the pillow, and of letting it fall again in the position in which it was found, it is not inappropriate to consider two classes of facts: I. Those which relate to voluntary motion after fatal wounds have been inflicted, and II. Those that refer to convulsive and involuntary movements resulting from hæmorrhage.

"On the first of these points Taylor (page 347) remarks: 'There are several cases on record which show that wounds involving the common carotid and its branches as well as the internal jugular vein do not prevent the exercise of voluntary power and running a certain distance,' and page 270, 'Suicides do not immediately perish from wounds that are commonly termed mortal, on the contrary they have power to perform acts of volition and locomotion which might seem incompatible with their condition.' Among a considerable number of instances recorded in which persons with wounds in the neck, that were almost immediately fatal, have performed such acts of volition and locomotion, two are referred to by Brierre de Boismont (*Annales d' Hygiene*, xli., page 143) who cut their throats before a mirror, walked across the room by the aid of the furniture, covering the floor with blood, and reaching their beds, lay down and died.

"In a case referred to in Beck, (vol. ii., page 350,) a woman in whom the left carotid artery was cut, and many branches of the carotids and jugulars, walked twenty-three yards, crossed a stile three feet ten inches high, and then died. A man afterwards found that the time required for him to do this was thirty seconds.

"The case already quoted from Degranges, in which a man after cutting his own throat went to and returned from another story of the house, and with apparent great deliberation hanged himself, illustrates the same point. *It is not evident* in *any* of *these cases* that *both carotids* were *cut*, still they leave to us the inference even when both were cut that certain voluntary motions can be performed, and probably all that were supposed to have been performed in this case. But with reference to convulsive movements there can be no doubt that they are common in death from hæmorrhage, and more common the more rapidly fatal the bleeding. These convulsive movements are known to last as long as the bleeding continues, and analogy permits us to infer that in these cases they may have continued at least thirty seconds after the wound was inflicted." Is an undisturbed bed consistent with "these convulsive movements?"

†Doctor Clark, (Academy of Medicine report, page 339) in speaking of the "position of the body," says:

"It will be remembered that little or no blood was described as having been seen below the upper border of the flannel dress that was next the skin on the chest, yet that there was a considerable spot of blood upon the sheet turned down upon the lower part of the body. The question of the position of this person when the wound was inflicted, whether seated or lying upon the bed, is one regarding which there is some doubt, and the question was raised whether it was possible to inflict this wound upon herself lying upon her back. (See note A.)

In my judgment, *this* is the *strongest* point in the *case* for the *prosecution*, not *because there* is any *difficulty* in inflicting the *wound*, for there is none, as any one can convince himself by *lying down either* on the *floor* or on a *feather bed*, (the bed in this case was of

notwithstanding he had the same data that we had. He says when the cutting was done, "She was in the sitting position." This view is from the testimony taken before the coroner, and the blood on the sheet. "In this position I should think the razor would naturally fall near right side;" also that "the right hand would be bloody in throat cutting."

In his subsequent examination, he stated that "he testified before the grand jury that the balance of probabilities was that she was sitting up. The blood on the sheet in front, was the ground of that opinion. No other ground, except, that I supposed there was a larger amount of blood in front than has been testified to. The absence of more blood in front, causes me to hesitate or doubt as to the position in which she was when the cutting was done." Now, he swears before the grand jury that from the testimony taken and the blood in front on the sheet, that she was in the sitting position. The data from which he formed his opinion then remains the same, and still he says "the absence of more blood in front (than what he first formed his opinion from) causes him to hesitate or doubt." *Well may he doubt that this neck could be cut half off in the sitting posture, and not one drop of blood trickle down in front, to say nothing of its being thrown off in jets!* This evidences that his opinion was formed in a great measure from what he expected to be proven, and not from what was proven, which is quite out of professional teaching. Taylor says, "that the wound in the throat must have been inflicted while the deceased was lying on her back, *i. e.*, in the recumbent posture. There was no blood on the anterior part of the neck below the cut, and there was no blood on the anterior part of the body or night-dress. Considering the blood-vessels divided by the wound in the neck, the forepart of the person and dress, if the deceased were sitting up at the time of its infliction, could not have escaped receiving a considerable amount of blood. The description of the flow of blood being chiefly on each side of the neck, is in accordance with the view that the wound was inflicted while deceased was on her back.

"The head being deeply embedded in the pillow, is also in favor of this view, since, had deceased sat up at the time of infliction, I do not believe that by any accidental fall, such an embedding of the head in the pillow could have taken place; and further, it is not conceivable that the head should have been thrown back as the result of an accidental fall."

Dr. Clark stated before the grand jury that in cutting carotids, the hand "would be bloody." It will be found by reference to the testi-

feathers), and *making* the necessary *motions;* but because *it* is a *position* rarely *chosen*, and *seems* to *offer fewer facilities* to *this* kind of *suicide* than the *sitting attitude*. (See note B.) The body and head were found inclined a little to the right, but there was not even a probability that this was the position in which the wound was inflicted. There were certainly some movements after the fatal wound was received. There was more blood on the right side of the body than on the left. This would only show that the *deceased turned to this position* while the *bleeding* was *yet free*. Taylor (p. 284) remarks that, "If the throat be cut while a person is lying down, it is obvious that the blood will be found on either side of the neck and not extending down the front of the body. Few suicides cut the throat while in a recumbent posture, and the course which the blood has taken may, therefore, be rendered subservient to the distinction of a homicidal from a suicidal wound." Had it been shown in this case, that the wound was really inflicted while the woman was lying down, in my appreciation, the other circumstances are so controlling as to place this case among the "few suicides *who* cut the throat while in a recumbent posture." (See note C.)

NOTE A. Doctor Clark in his statement before the grand jury said, she was sitting up when the cutting was done. (See also Taylor's letter to me on the subject.)

NOTE B. I will go so far as to say that such a wound was never self-inflicted on the *back*, or in *any position*.

NOTE C. See Doctor Clark's statement as to why he has any doubt as to the *position* in which the *cut was* made.

mony, that this hand was not bloody except on the palmar surface. He further stated before the grand jury, that "in cutting the throat, the eyes and mouth are closed as a general thing." (Grand jury notes,) I think it a new doctrine and data, and it should always be remembered that in a *violent death*, this closing of the eyes and mouth should always take place. Dr. Clark further says, "the arterial blood collects on surgical instruments in drops and lines," and does not cover the whole instrument. T. "On a razor, blood, I should think, would have less action than on surgical instruments." M Here, again, is another of the points of special pleading rélied on to show that blood did not soil the polished steel, and particularly "if sharpened on an oily strop.* To prove the fallacy of this, I present two catlings and two razors, each of which had severed a sheep's neck to the bone. One catling and one razor had been stropped on an oily leather, and been in use for some years. The other catling and razor were new and just polished by the instrument maker as highly as they were susceptible of. All of these blades were covered with blood, "no drops and lines." This experiment I repeated and now present them for the inspection of this society, the result will appear satisfactory, and gentlemen cannot fail to coincide with the above statement. On this point observe the letters of Profs. Taylor, Geoghegan and Gross.

The point insisted upon by the medical counsel for the defence, that blood acts the same as water on a razor or knife, and that its albumen and saline properties do not render it more adhesive than water, is too apparent a *fraud* to need *comment*, since the profession know how difficult it is to remove blood stains either from the *skin* or from *polished steel*.

And as to suffocation or strangulation, how came the tongue to be chewed laterally, when it never occurs in death by hemorrhage, and

* Doctor Clark's statement of this case, see Bulletin Academy of Medicine. (Page 335.) When he says:

"BLOOD ON THE INSTRUMENT.

"It is universally admitted by the authorities that in suicidal cut-throat there must be a certain amount of blood upon the instrument with which the wound was inflicted, and also upon the hand that carried it. (See note A.) But in regard to how much of blood there should be on each, and in what relation it should be found, they are almost entirely silent. In this instance it did not appear that the blood covered the razor blade, but that it was collected in rather narrow bands and in spots upon different portions of it, a band of moderate width being described near the edge of the instrument. (See note B.) It was urged by the prosecution that this was an inadequate show of blood upon the weapon. By the defence it was claimed that upon a polished instrument of any kind, and especially upon a razor that had been stropped on oiled or greasy leather, blood would dispose itself as water does upon such instruments, and thus cannot be made to cover the surface uniformly, but will collect in lines and drops, much as the blood was supposed to have collected upon the instrument in this case. This is a subject, however, concerning which surgeons have the means of forming more accurate opinions than physicians. The most definite statements we find on this topic are made by Taylor. Thus (page 279) he says: 'The blood on the instrument may be partly coagulated and not diffused as a mere film; this would render it probable that it had issued from a living person or animal, or from a recently dead body.' Again, in the same page, he adds: 'Particular attention should be paid to the manner in which the blood is diffused over the weapon. It is not unusual for a criminal to besmear with blood a knife or other weapon which has probably not been used.'" Thus it would seem probable, had this instrument not been used to make the wound, but obtained for the purpose of deception, as was believed by some of the witnesses for the prosecution, that the blood would not have been found collected irregularly on it, (see note C) but it would, in Taylor's language, have been "besmeared" and very generally "diffused."

NOTE A.—See Taylor's letter to me on the subject.

NOTE B.—See Doctor Olmstead's statement that two-ninths of the razor blade only was bloody.

NOTE C.—No fact of this kind was produced by Dr. Olmstead—his witness. See his testimony.

how came the œsophagus (see Dr. Hogeboom's testimony) redened and discolored just behind the larynx, and not in any other portion unless it had been bruised by some violence before death—while on the theory of suicide it should have been exsanguined, or at least of the same appearance as the residue. On this point, Professor Lee says, "there is little doubt that death resulted from suffocation," and even if she were subject to insanity, "I should decidedly coincide in the opinion you have expressed in regard to the cause of death, for all the facts point irresistibly to the agency of another hand." Geoghegan says, "the absence also of more than slight stains of blood on the hand, the division of the transverse process of the cervical vertebræ and the condition of the tongue are presumptive of homicide."

Taylor says: "The spot of blood twelve or fourteen inches in length, &c., on the bed-clothes, and the spots on the pillow to the right have no communication with the main source of hemorrhage. They must have been produced subsequently to the wound in the neck. There is no conceivable theory by which the deceased could have produced them, or that they could have resulted from any act on her part on the supposition of suicide. Taking the attitude of the body, the nature of the wound, and the medical circumstances in reference to the position of the stains of blood and the weapon, I am of opinion that this wound was not inflicted by deceased on herself, but that it must have been inflicted by some other person. The head of deceased was pressed backward on the pillow, and it would appear as if the chin had been raised or pulled upward at the time of act of cutting."

On this subject, Prof. Gross says, "how she (Mrs. Budge) was killed. I will not pretend to affirm, but probability suggests itself to my mind of manual strangulation, and that the throat was cut immediately after. This idea derives plausibility from some of the circumstances revealed during the dissection of the body."

In strangulation or suffocation are marks of violence necessary? We say no; for confirmation, quote from Taylor's Medical Jurisprudence, page 576, where he says, "If a very soft, elastic band was applied to the neck with a regulated force, it is possible that an individual might die strangled, without any external sign being discovered to indicate the manner of his death." Indian surgeons inform us that Thugs and other robbers in India are thus accustomed to destroy their victims with the dexterity of practiced murderers.

A case involving this question of strangulation without marks of violence, was recently tried in France, and from the medical evidence was decided in the affirmative. Now in opposition to this Dr. Clark makes the following statement: "In case of death by strangulation or suffocation the rule is, that there are marks on the *murdered person* as well as on the murderer. No recorded case in which there were not marks, on persons murdered, when they were adults in possession of their strength. Persons strangled usually struggle to the extent of their muscular power and with great advantage." M

In answer I will only quote from Watson on Homicide, page 130, who says: "Death *may* be *effected* by *strangulation without* leaving any *marks* on the *neck*. * * *When* the cord (or hand) is *removed* some time *previously* to the *inspection*, the *lividity*, *swelling* and *blackness* of the *face* and *other signs* of *turgesence of blood about* the head *may* have *gone off* from the *fluidity* of the *blood*" and *particularly* so if all the large vessels of the throat are cut afterwards. Again, in reference to manual strangulation, Watson on Homicide, (p. 135) states that "When death takes place from

*asphyxia*, caused by the *compression* of the *larynx* or *trachea*, and *without compressing* the *great blood vessels* of the *neck* the *countenance remains pale* and the *head exhibits few* of the *signs* of *cerebral congestion*; convulsions take place, respiration is interrupted, venous blood circulates in the brain, insensibility, coma, cessation of the heart's action, and death follows :

Doctor Clark says : "In case of death by suffocation (or strangulation) there would be some marks which would lead to suspicion; thinks the marks might not be satisfactory." (M) For the elucidation of this subject I have only to refer to Watson on Homicide, page 127. He says : "The *appearances* observed after death by *strangling* are the *same* as those which I *described* as *occurring* in *asphyxia*."

Again, in the form called throttling, "the return of blood from the head is not so much prevented as when the ligature surrounds the neck, so that the appearance of turgescence of blood about the head is less marked, or may be entirely wanting."

Here he denies that there is any distinctive appearance in death from throttling or strangulation from any other form of asphyxia. Even Dr. Clark thinks that opening the veins might remove many of the marks, which is expressed thus : "In case of *strangulation* or *suffocation* the *opening* of the *jugular would remove many* of the *marks*." (M)

And as to the inportance of an early examination, *post mortem*, in order to make the case more satisfactory, he (Dr. Clark) makes this statement : "An *early post mortem examination would give more satisfactory evidence of asphyxia than* 4 *months after death*." (M) This is an honest confession, at least, so far as external marks of the body are concerned, since, at the time of death the physician made no examination of this body, except the face and neck, while at the time he (Dr. Clark) saw the body it was covered with mould and had been much disturbed by a previous dissection. The next point of interest is that in reference to the post mortem appearances in death by suffocation, etc. The doctor (Clark) states : "There are certain distinctive *internal* evidences of *strangulation* and *smothering*, we searched for them, but could not find them. We find the same general internal *appearances* in *all cases* of *asphyxia*, *except* it is produced by *smothering* and *suffocation*. In these we find the *effusion* of *blood under* the *pleura* and *scalp*." (T.) In elucidation of this point I have only to refer to Christison, Taylor, Watson, Wharton, and Stille, &c.

Taylor, who (Med. Jur., page 594,) says, "in Medical Jurisprudence (there is not perhaps an instance in which we have fewer medical data to base an opinion on than in a case of alleged death by *suffocation*,) the inspection of a body *suffocated*, presents so *little* that is *peculiar* that a medical man, unless his suspicions were aroused by circumstantial evidence, or by the discovery of foreign substances in the air passages, would probably pass it over as a case of *death without* any *assignable cause* ; in other words, from *natural causes*."

The following from Wharton and Stille's Med. Jur., § 897: "Nevertheless, these miserable wretches (Burke and his accomplices) reduced murder by *suffocation* to a *system*, choosing it as the mode of death *most likely* to *leave no marks* of *crime behind*. The murderer *bore* with his *whole weight* on the *chest* of his *victim* and with his *hands covered forcibly* the *mouth* and *nostrils* till *death came* on. (The body of one of the victims presented, according to Dr. Christison, so few traces of injury that without the assistance of proof from other sources, it would have been impossible to have declared that the *death* was not a *natural* one. Idem, § 894.

The post mortem appearances in suffocation, as Casper has pointed out, will be found to differ more or less, according to whether death has been sudden or prolonged, whether it was produced by *syncope* or by *congestion* of the internal organs, and whether the person was *scantily* or *abundantly* supplied with *blood.*

If a person has been *smothered* with the bed clothes or *suffocated* by a *hand* held before the *mouth* or by *compression* of the *chest*, a distinct and *satisfactory indication* will *seldom* be *had.*"

Dr. Clark, referring to Christison, says, "there is a case in which Dr. Christison says the marks would not justify him to say death was caused by suffocation. Have not seen any case in which there was no external marks." (M) I will here quote Christison's views on this subject, from Watson on Homicide, p. 115 and 121.

"Dr. Christison, remarking upon the case of Margery Campbell, supposed to have been suffocated by the notorious Burke, says, 'the conviction in the public mind that a well informed medical inspector should be able to detect death by *suffocation* simply by *inspection*, and without a *knowledge* of *collateral circumstances*, is erroneous and may have the pernicious tendency of throwing medical inspectors off their guard by leading them to expect *strongly* marked *appearances* in every case of *death* by *suffocation.* That such *appearances* are *very far* from being *always present*, ought to be distinctly understood by every medical man.'"

Again he says: "When *asphyxia*, on the other hand, has *caused* death quickly and suddenly, there is little or *no unusual congestion* of *blood* in the *lungs* or *heart.*"

My own opinion is that if these marks, bruises and effusions occur, they are only accidental, that they are the exceptions, and not the rule. I have examined three cases of accidental suffocation, and have reports from physicians of three more, and in none of them did this condition exist.

Dr. Clark makes the following statement, which careful experiment proves to be untrue. He says that the third stage of asphyxia is "where all external evidence of life ceases, and the heart continues to beat." Now, in this condition, if the carotids are cut "the flow of blood would be little." (M)

Doctor Clark cannot, surely, be ignorant of the experiments of Doctor John Reed, of Edinburgh, who states, in substance, "when an artery is cut across, immediately after insensibility has supervened (after asphyxia), the blood springs in a full stream with a force equal to what would occur if arterial blood was circulated in the vessels."

Also, when "a tube, with a stop cock, was fixed in the trachea and a hemadynometer was introduced into the femoral artery of an animal (asphyxiated and insensible), the *mercury* actually stood *higher* in the *instrument* and the *arteries became more distended* and *tense* for *about* two *minutes.*" this was *true* even when the blood in the *arteries* had *become equally* as dark as it was in the accompanying vein." Now, in this condition, then, the blood would even spirt more furiously after consciousness ceases and the arterial blood is fully changed into venous, which occurs in one minute and a half to two minutes* after the air has been entirely excluded from the lungs. This ill accords with Doctor Clark's statement, which is, if Mrs. Budge was "*smothered* and (the throat) then cut, not much more than a half pint of blood would run out—maybe less," and this cutting in this condition "would not lessen (the) weight of that lung." Now, this would depend on the

*Edinburgh Medical and Surgical Journal, 1841, v. 55, p. 446 and 450.

time at which the cutting was done. If cut at the stage spoken of by Prof. Reed, the force of the current would be greater, and the amount of blood lost—both from the lungs and the general system—would be as much as if cut during full life and consciousness.

Now, to show that in death from asphyxia that nearly all the congestion can be removed by cutting the throat and severing the large veins, I quote from Watson on Homicide, page 136, where he says, "in consequence of the blood remaining *fluid* (in death, from asphyxia), * * the *position* in which the *body* may have been *placed* may have *removed* the *congestion* about the *head* and *face*. The *greater part* of the *blood* may also *be removed from* the *body* by *opening* the *jugular vein* and *destroying* the *congestive* 'appearance.'"

This contrasts strangely with the above statement of Dr. Clark, and still this quotation from Watson is in accordance with my observations. "A large flow of *blood* may *take* place from the *body*, after death, from asphyxia, inasmuch as the blood remains fluid and gravitates freely, and coagulates only imperfectly on being discharged from the body.'"

Dr. Clark, in speaking of blood in the bronchia, says: "In case of *suffocation*, blood *could* not get into the *bronchial tubes*; suffocation has something to do in causing death in case of *throat cut*." (M) I will hereafter show from Watson and others that in death from asphyxia blood is effused into the mouth, nose, bronchia, &c. If so, why not, even in the air cells, while, during the spasmodic efforts at respiration, it would become firmly packed into the cells, thus constituting circumscribed apoplexy; while, like the covering of the brain, the sub-arachnoidean cellular tissue, the general cellular tissue of the body, and the general connecting tissue of the lung may be the seat of diffused apoplexy from the same cause; and, as to "suffocation" having anything to do in "causing death in case of throat cut," *like this* (neck cut half off), it is quite needless for me to say, it can have none, since they are dead before "suffocation" can be induced. Here, again, Doctor Clark will allow me to *respectfully differ with him*. In reference to the next point, though spoken of before, still as it ignores entirely death by suffocation, &c., in contradistinction to death from hæmorrhage, Doctor Clark says: "Blood bubbling up in wind-pipe by raising arm after death, would show that blood had been drawn in life, thus mixing it with air—that could not be so if suffocation had preceded the death, as in that case there would be no air in motion in case of suffocation." M Now, this fact proves to my mind most incontestibly, 1st. That this fluid blood was not the result of hemorrhage before death, since, in that event, all the blood becomes solid coagula and serum; 2d. The fluidity of the blood is evidence not of *death from hemorrhage*, but, on the contrary, of *death by "asphyxia."* And, as to the "blood bubbling up in the wind-pipe" as the result of alternately expanding and compressing the chest by raising and depressing the arms, thus virtually imitating muscular action in producing respiration (post mortem), hence the "mixing it (fluid blood) with air" could as well be effected *post mortem as ante mortem*, hence this *large amount* of "*fluid-blood*" issuing from the *trachea*, vessels and tissues *is, by itself, proof positive to my mind* that *this cut was made post mortem* instead of *ante mortem*.

Again, Dr. Clark states that "the marks on the tongue were such as might have been made by convulsive movements of the jaws dying, by hemorrhage." And again, he states that "the marks (ecchymosis) on the tongue might be produced by convulsive movements in death from asphyxia." M

Now in either event there would have been a severe struggle, and convulsive in its character, so that the bed and body clothing would have been materially disturbed (while they were undisturbed); so that taking either horn of the dilemma, we conclude that *some one besides Mrs. Budge* had to *rearrange* this *bed.* In death from asphyxia it is known that the tongue is sometimes wounded, while in the hundreds of animals slaughtered by cuts made in the same way, I find no *chewed* tongue. Hence, this would seem more as if produced by chewing in death by smothering. The absence of *any* evidence of convulsive movements about the bed or body clothing is significant of *post mortem interference*, while the ecchymosis of the tongue points conclusively to the *agonies* which *accompany a violent* death; and unless the bed had been *rearranged* after this, it would still have given *evidence* of these *convulsive* movements, whether death occurred from *suffocation, hemorrhage,* or convulsions from any other cause. This cut (on the theory of suicide) was *made* at *one stroke* with a *razor*;* hence, after the completion of this cut, the hand would have to carry the razor down and drop it by the side of the body; then carry the sheet up, and bloody it from the cut, carry it down to the position in which it was found, then carry the hand to the face, then to the pillow, and thence back to the right side, and drop it over the razor. This presupposes 1st, voluntary motion; 2d, a bloody hand; and 3d, that a piece of cloth "saturated" and "soaked" with blood, would not *soil other* clothes with which it came in contact—all of which is untrue.

### Lungs and their Condition.

Now, to account for the congestion, engorgement and apoplexy of the right lung, the Doctor (Clark) pursues a roundabout way to accomplish it; and since the reasoning is so novel I will take some pains to lay it fully before the profession, that they may know how adroitly the defence was managed.

I have already shown how he disposes of the *carotid arteries* and their *natural action*, and since *this* is equally ingenious, I will present all he says on the subject.

1st. He is shown a lung having great specific gravity, portions of which Professor Porter and myself swore were congested, some engorged, some diffused and circumscribed apoplexy—only a small patch of what appeared circumscribed. (I swore, on the trial, that this last portion was about as large as a hazel-nut, 1 drm.) Now Dr. Clark saw all these, acknowledged that one was congested, one was apoplectic; and by reference to his sworn statement, it will be seen that he finds that this apoplexy (if not of the circumscribed variety) would be troublesome to account for on the theory of death from hemorrhage, and hence goes into a general denial as to there being any diffused apoplexy, any congestion or engorgement—but says that "the parts of lungs I saw in Albany were apoplectic. There were 3 pieces (1½ to 2 oz.) I considered apoplectic. * *. The blood I saw in the apoplectic part of the lung, (which) I saw in Albany, was in air-cells, and must have gone through breathing tubes; blood *cannot get into bronchial tubes unless* through cut, or (the) blood is discharged from (mucous) membrane (while) living." (M) Now to demonstrate still further his theory of sucking in blood, to account for the apoplexy of this lung, he makes the following statement: "The apoplexy of the lung seen at Albany, induced me to sup-

* A razor is an unmanageable instrument to use where any degree of force is required, since the whole purchase (unlike a knife) for the hand does not exceed two inches.

pose that there had been blood in the trachea, and drawn into the lungs." This condition, according to his theory, could only be produced by "cutting the throat; and severing of trachea at the same time would produce it." This "would be caused by blood passing into the windpipe, * * by convulsive breathing." (T) It is worthy of note that this cutting was the exact counterpart of what takes place when animals are slaughtered Jew fashion, *i. e.*, cutting all the tissues anterior to the vertebræ (from without inwards), and still this apoplexy by "insufflation" *never* takes place, nor can it take place for reasons before stated. Then to negative the idea that there could be any congestion, he denies there being any in the left, and then reasons in this wise: "Congestion resulting from suffocation or strangulation (or any analogous causes) would be the same in both lungs." On the other hand, if the throat was cut—and by his theory of insufflation you would have "apoplexy" circumscribed, which "*might be in both lungs—it would be most likely in the right.*" (T)

He further states that "asphyxia generally produces *congestion* of lungs, *never* apoplexy. If asphyxia should produce apoplexy, it would be that in which the blood is diffused into the tissue." I have always supposed one was apoplexy as much as the other. At least all good authority lays it down as such With reference, however, to the quotation, taking it for granted to be true, it is just the condition we found in the right lung, *i. e.*, at most a small clot and a large circumscribed portion of diffused apoplexy and a much larger portion bordering on apoplexy, and still a larger portion congested, so that in his anxiety to make this apoplexy appear out of the range of possibilities, as having been induced by asphyxia, he has inadvertently given me the data which make it not only consistent with death by asphyxia, and throat cut afterwards, but renders it a *moral certainty.* Even the next quotation when viewed in its proper light will only strengthen this view. He states that "in drowning the person can get no air,"(M) so that there can be no circumscribed apoplexy, and hence the congestion is alike in all parts of both lungs. Not so in manual strangulation or suffocation where there is more or less remission which allows the air to pass. He must certainly acknowledge that it seldom happens that in this latter form of death and under any circumstances where the struggles are severe, violent and protracted, the air is not suddenly and entirely suspended, and hence if blood was discharged into the bronchia by this struggle it might and would be sucked into the air cells while it never could be in cutting the *throat* as *this was* cut, on the theory of suicide—(taking his own statement.) In death by asphyxia from suffocation or strangulation, if blood can be forced out in the tissues such as the scalp and sub pleural tissues, why not into the cellular tissue of the lung and that *too* at *some* points and not *generally* through its substance, and if so, agreeable to his own statement the right lung being larger and supplied more directly with blood would be the most likely to suffer. Hence we should have precisely what was here found, *i. e.*, *congestion, engorgement, diffused, and circumscribed apoplexy.*

On the other hand he claims what was untrue, *i. e.*, that all of the 3 ounces of lung seen in Albany was "circumscribed apoplexy," and that this could not be produced by any form of "asphyxia," and that if there was any congestion at all it should be alike in both lungs. This I am sure is incorrect, for I have seen apoplexy (circumscribed) produced by a combination of strangulation and suffocation in two instances, and still he insists that cutting throat as this was could produce

the condition here found in the following words: "*I became satisfied by the appearance of the apoplexy in the lungs that the death was from throat-cutting.*" (T.)* I felt inclined to invite him to write a distinctive text-book on the subject of apoplexy, and to give us the especial points of difference, as the Profession had been laboring these 1900 years without this grand desideratum.

Again he says: "*There is no difficulty in the blood getting into the trachea in any position of the body.*" (T.)

With reference to this *anomalous* doctrine, I have only to say it is too ridiculous for discussion, and still this *grave counsel* says: "*I have never seen a case of this kind.*" He should not have stopped there but should have said, "nor has any one else ever seen one," nor can it be so produced when the parts are severed as in this case. And as to the right

*The Doctor's statement that "circumscribed apoplexy" can be produced by "cut-throats" and not by asphyxia from suffocation or strangulation is worthy of notice, hence I will quote all he says on this subject in his Academy of Medicine, report page 331.

PULMONARY APOPLEXY.

"It was *claimed* by the prosecution that in the *right* lung there were *several* points of *pulmonary apoplexy*, and that statement was *admitted* as *true* on *inspection* of the *part* of the *lung*. The *explanation* given by the prosecution and defence was very different; the *former* claiming that these *effusions* were the *result* of *suffocation*; the *latter*, that so far from having been *produced* by this *cause*, their very *existence proved* that no *suffocation* had been *attempted*. No cases were cited, and it is believed that no instance can be found in which suffocation has produced circumscribed pulmonary apoplexy.* If the explanation which Watson (*Pract. Phys.*, 3*d Amer. Ed.*, p. 613) and Carswell (*Path. Anat.*, part Hæmorrhage) have given of this occurrence is admitted, it will appear obvious that the fact is inconsistent with asphyxia in any form. Watson, speaking of the ordinary occurrence of pulmonary apoplexy, says: "The seat of the effusion is in one or more of the larger branches of the air tubes and the blood, or a part of it is driven backwards into certain of the pulmonary lobules by convulsive efforts to respire. * * * * It is easy to understand how certain portions of the lung, without undergoing any actual change of condition, may be so choked up and crammed with blood as to preclude any subsequent admission of air." He here speaks of the variety called *circumscribed apoplexy* of the *lung*, which was the *variety observed* in the lung in *question*. This choking up and cramming with blood is a filling of the air cells of the lungs. This can be made evident by the same procedure by which we determine the seat of the effusion in pneumonia; (See Note A.) by the aid of a lens the little coagulum formed in a single air cell can be turned out with the point of a needle and its character ascertained under a microscope, and thin sections of pulmonary apoplexy under the microscope can be easily made to show that it is the air cells that contain the blood and not the general tissue of the lung. Now it is claimed that pulmonary apoplexy of this variety can be produced in cut-throats, (See Note B.,) merely by a forcible inspiration taking place while the trachea is more or less filled with blood from the cut, and inasmuch as "convulsive efforts to respire" are necessary so to fill the air cells, it is plain that such efforts are not likely to take place during an attempt at homicidal suffocation; (See Note C.,) and further, on this supposition there is no source from which the blood can flow to be drawn into the lungs. Those who have noticed the effect of cutting the trachea and large vessels of the neck in the inferior animals will easily understand this. After the wound is made, for some seconds there is no effort at inspiration, but before death takes place there are usually three or more, and one or more of these will be observed to be convulsive and noisy from the blood that has already entered the severed windpipe; and as an observed fact circumscribed apoplexy of the lung does take place in these animals under these circumstances, and will occur in the right lung when the body of the animal is inclined to the right, or in the left lung when inclined to left. (See Note D.)

In confirmation of this view of pulmonary apoplexy I may be permitted to cite a case that occurred under my own observation. At Bellevue Hospital, some yeare ago, we had a patient who had occasional vomitings of blood, from ulcer of the stomach. One day, while enjoying the sun and air on the south side of the building, sitting with other patients on a bench, he suddenly discharged from his stomach a large quantity of blood. A loud gurgling noise was heard in his breathing, and he fell dead. At post-mortem examination, coagulated blood was found in the stomach. The trachea and bronchial tubes contained frothy blood, and both lungs were studded with numerous masses, large and small, of circumscribed apoplexy. There was no other lesion of the lung. It seems to me clear, that this man, feeling the urgent want of breath while the throat and mouth were full of blood, had drawn this fluid into the lungs by one or more violent inspirations." (See Note E.)

* Doctor Clark says, he has never heard of a case of circumscribed apoplexy from this kind of throat cutting.

NOTE A. What analogy is there in death from pneumonia, and death from severing both carotids?

lung being the especial sufferer in this any more than in any other form of apoplexy, he does not deign to tell us where those anomalous cases can be found, only "he has not seen them." The bold inconsistent assertion "that there is no *difficulty* in the *blood getting* into the *trachea* in *any position* of the *body*" bears too strongly the impress of *buncombe* to require any consecutive reasoning as may be seen by reference to the animal while being slaughtered.

And as to the possibility of the "*concurrence* of *suffocation and hemorrhage*, (so as to prevent the full amount of blood from being lost,) "when the cutting was done as this was (on the theory of suicide) it is quite out of the question since there are but few efforts at inspiration which continue 2 to 3 minutes after this kind of cutting, while the bleeding is finished in 1½ to 2½ minutes and the convulsive efforts continue for 4 to 5 minutes.

In asphyxia from hanging, the heart continues to beat for 10 to 15 miuutes, and hence the natural inference would be, that in death from carotid cutting, the heart continues to act as long as there is any blood to act on. For instance, in cutting all the parts anterior to the vertebrae of several sheep in the sitting posture, so that the wind-pipe was filled instantly with blood; all the efforts at respiration only blocked it up more thoroughly, so that there was not one expiration after the cutting. The result was, that the trachea and all the large bronchia were blocked up with solid coagula, no "fluid blood" flowing from the wound after half-an-hour. One hour after the wound was nearly dry, the same as all the others *slaughtered, by cutting both carotids and pneumogastrics*, and hence, "no fluid blood bubbled out." These lungs when deprived of the trachea were only about 1½ ounces heavier than those of the sheep bled in the ordinary way, while the specific gravity was much less (about one-third), owing to the impossibility for the air to escape from the closed bronchia. By the most careful examination of these lungs, there could be found no traces of *congestion, diffused or circumscribed* apoplexy.

I wish now to note some points in reference to the opinion expressed by Dr. Clark, as *medical counsel*, respecting the weight and specific gravity of the lungs. Dr. Clark states the specific gravity of the left lung to be 665. Now, Dr. Hogeboom states (June 2, 1860,) before the grand jury: "Took left lung home with us—examined it on the spot—specific gravity, .692. Again in September, 1860, he says, "specific gravity, .692." Prof. Coventry (June 2, 1860,) says, "specific gravity, .692; and on the 13th of September, 1860, says, "specific gravity, .692," so that we have these two consecutive statements by these physicians, who were associated with Dr. Clark in this examination, and though this statement makes only a difference of .027, it will be seen of what importance it is sought to be made in the ultimate results—taking his

NOTE B. This circumscribed portions of apoplexy cannot be found in those dying from hemorrhage where both carotids are cut; *by a careful series of experiments* on animals slaughtered by throat-cuts in the way Mrs. Budge was cut, none of this apoplexy is found.

NOTE C. If blood is effused in trachea during suffocation, why not have it down in the air cells?

NOTE D. From experience, I say this is not borne out by experiment, while if the inspection is delayed some time there may be static congestion.

NOTE E. If this case is presented as analogous to Mrs. Budge, I ask in the name of common sense and common reason, can that analogy be "ulcer of the stomach" and vomiting of blood and sucking into the bronchia and air cells just the condition that would occur in suffocation when blood is forced out of the bronchia, and so be "choked up and crammed with blood as to preclude any subsequent admission of air." On the other hand if the head is cut half off, and no obstruction to the flow of blood, there could be no blood in the air cel's and hence no circumscribed "pulmonary apoplexy."

data. Dr. Clark's first statement is: "The range of the specific gravity is, from .343 to .746," (in life) the mean of which, .544. The capacity of the left chest is "109 inches," and hence the lung in life is the same. The lung when exposed to the air sinks to two-thirds its natural size." Suppose this lung died with all the blood which it contained in life. "By this contraction its specific gravity is reduced one-third, and on this basis the lung should have been 73 inches. Then its specific gravity would have been .181. * * * * * Its specific gravity adding escaped fluid to weight as found, would be .288. This lung, (Mrs. Budge's left) instead of shrinking to only "73 cubic inches," ought to shrink (on data of animals bled) to 12-24 cubic inches. Now, Dr. Clark states, that on the basis (of death from hemorrhage) he has laid down that the lung shrinks to two-thirds its natural size, "when the chest is opened, and that" its specific gravity is reduced one-third "in consequence." This statement, on the theory of hemorrhage is erroneous. I find after a series of experiments on animals bled in the way Mrs. B. was supposed to have been bled (by Dr. Clark), that the lung instead of shrinking only "one-third," that the mean ratio of shrinkage is nearly eight-ninths, and consequently the specific gravity is reduced in proportion, and instead of being reduced only one-third, it is reduced as low as five-eighths to seven-eighths; and hence when inflated to life data, it presents a density of only .112, instead of .343, or .746, what he claims is the life data from full inflation, or .288; what he claims must have been the specific gravity of Mrs. Budge's left lung at the time of death. This is on the data of "21 cubic inches," as he found it. Now on the same data (animals bled to death) as above stated, instead of this lung having 21 cubic inches, (in death from hemorrhage) it should have been only 12.24 inches, so that a lung bled to death in the way Mrs. Budge's was supposed to have been, should shrink when the chest is open to one-ninth its original size, and its specific gravity is increased pro rata. This lung instead of having a specific gravity of ".288," (life data) should have been .112, if bled to death. Now, instead of this left lung of Mrs. Budge's having only 21 cubic inches, if we add the 5 ounces of fluid which had escaped, it would have been 30 cubic inches instead of 21 as stated, and taking Mrs. Budge's left lung as 21 cubic inches—then add the 5 ounces of fluid, 30 cubic inches, and hence, 109 cubic inches, the life data of Mrs. Budge's left lung is reduced by shrinkage to 30 cubic inches instead of 12.24; hence taking the data of Dr. Clark (in reference to Mrs. B.'s lung), the sheeps lung, (bled to death) which had a life capacity of 210.96 cubic inches, should shrink only to 59.69 cubic inches, instead of 12.24; 12.24 cubic inches, the mean data for sheeps lungs, bled as Dr. Clark supposes Mrs. B.'s was.

The following tables will give some idea of the comparative relation so far as specific gravity is concerned between the lungs, where death is known to have taken place from hemorrhage, and Mrs. Budge's lung which Dr. Clark says, died of hemorrhage by cutting of both carotids, and still, when collated with those are found to have a specific gravity of .120 to .193 greater than his data would indicate. While, if we take the right lung, the difference will be more manifest.

SHEEP'S LUNGS.—The lungs used in these experiments were taken from the sheep killed, "Jew fashion:" *i. e.*, (placed on the back, head forced backwards, all the tissues, cut from without inwards, and down to the spine.)

| | Before inflation. Fluid. | After inflation. Fluid. |
|---|---|---|
| No. 1, lungs displaced, [of water] | 16 ounces. | 102 ounces. |
| No. 2, lungs displaced....do | 16 ounces. | 130 ounces. |
| No. 3, lungs displaced....do | 10 ounces. | ... |
| No. 4, lungs displaced....do | 11 ounces. | 120 ounces. |
| No. 5, lungs displaced....do | 11 ounces. | 112 ounces. |
| No. 6, lungs displaced....do | 15 ounces. | 122 ounces. |
| Total displacement | 79 ounces. | 586 ounces. |
| Average displacement | 13.16 ounces. | 117.2 ounces. |

Assuming Dr. Clark's data, $1\frac{1}{2}$ ounces=2.7-10 cubic inches, we have the average bulk of lungs uninflated, 23.69 cubic inches, and the average bulk of lungs inflated, 210.96 cubic inches. Mrs. Budge's left lung uninflated=30 cubic inches, inflated 109 cubic inches. Hence, 210.96 : 23.69 : : 109 : 12.24, and conversely, 109 : 30 : : 210.96 : 59.69.

Six sheep weight averaging about 120 lbs. bled by cutting both carotids and nerves, trachea, &c.

Mean weight of both lungs, weight 14.9 oz. on the data of $1\frac{1}{2}$ oz.= 2.7-10 cubic inches.

Mean weight of both lungs, uninflated, gives 23.69 cubic inches.

Mean weight of both lungs, inflated, gives 210.96 cubic inches.

This makes an average shrinkage of 9 times its original bulk instead of one-third. On this data the specific gravity in life was .112.

Woman weighing 140 lbs., bled by cutting one carotid and wind pipe. Taking 109 cubic inches for the life data of the left lung, then the right having $3\frac{1}{2}$ cubic inches more, makes this lung .112$\frac{1}{2}$. On this data, this right lung presents a specific gravity when inflated of .168; the left lung presents a specific gravity, when inflated, of .163. On the same data, Mrs. Budge's left lung was .288; and her right lung .305.

Now if we take pro rata muscular weight of body, one (Mrs. Budge) being 96 and the other 140 lbs., the relative specific gravity of this left lung would be about .150 instead of .163, when however it is known that this woman bled from one carotid only it may account for the slight difference in density as presented between her lungs and the mean density of those of six sheep bled to death by cutting both carotids and pneumogastric nerves; the latter however are nearly uniform, and even more exsanguined than where only one carotid and no pneumogastrics are divided. Now contrast the density of either the animals' or the woman's lungs as compared with Mrs. Budge's left, .288, or right .305, and we have reason to take Doctor Clark's statement that this .288 would be a good deal below the average .545, his data of specific gravity of a lung, with many grains of allowance, since it furnishes irresistable proof that death took place while the lung was full of blood—in other words, death was not produced by hemorrhage, since the lungs were not exsanguined.

Now, it will be remembered that there had been some decomposition of the blood going on during the 4 months, and much bloody serum was driven out through the wound; and some had infiltrated into the cavity of the pleura, and still this lung weighed at the time of death near 13 oz., and when examined near 8 oz., instead of which, if this lung died from hemorrhage it should have been reduced to $4\frac{1}{4}$ oz.* Now, if this (Doctor Clark's case) lung died with a normal amount of blood in it, and still during 55 days it is reduced to about what it would have been ($4\frac{1}{4}$ oz.)* had it been bled to death, while its specific gravity was

* Bulletin Academy of Medicine, p. 11, experiment No. 4, made by Doctor Segur, by direction of Doctor Clark, and contained in his report of the case, says, "A woman aged 21, weight estimated at 110 pounds, died of meningitis, the right lung weighed $13\frac{1}{2}$ oz., and

diminished .049. Now, if Mrs. Budge's left lung had contained only fluid blood and no congestion at the time of death, the lapse of 120 days would surely have reduced this (Mrs. Budge's) lung to $4\frac{1}{4}$ or $4\frac{1}{2}$ oz. by the same process, (drainage.)

The Doctor (Clark) is here presuming on the condition of lungs in a normal state in life, and not those which are supposed to have died from hemorrhage, which would have completely *exsanguined* these organs so that scarcely *one drop of bloody serum* could have escaped by the process of "drainage," hence his assertion that "This drainage of 8 oz. of fluid from the right and 5 oz. from the left would not be an unnatural quantity at the end of 4 months in case of death from throat cut," (T.) *(death by hemorrhage.)* Here his statement is entirely opposed to a series of experiments conducted on the lungs of animals, bled to death by cutting in the same manner as Mrs. Budge was cut. (See table No. 1. p. 110.) Hence, I say that 5 and 8 oz. respectively is an unnatural quantity after end of 4 months, in case of death by hemorrhage. And as to the assertion that the lung shrinking from its own elasticity only one-third when the chest is opened in those bled to death, it is *untrue*, and is evidently intended to convey a wrong impression, as can be easily demonstrated by inspection of animals and their lungs when bled to death in the usual way by cutting all the parts anterior to the vertebræ. I think .300 to .700 the range of specific gravity as laid down in Gray's Anatomy, is not intended as life data, since it does not seem probable that there could be such a range in life: but that this is intended for the healthy lung (inflated with the residual blood in it) of those dying from ordinary diseases not involving the lung tissue; and as to the one-third increase in specific gravity when the lung collapses, I can only say that the condensation and specific gravity of a healthy lung depends entirely upon the amount of air and blood contained in them or the degree of putrefaction.

Now, perhaps Dr. Clark means to reason thus, as to the specific gravity of the left lung. If the lung, in life, has a capacity of 109 cubic inches, and on the basis of death, with the lung containing the life data of blood, then, on opening chest it would contract one-third and leave the lung of the capacity of 73 inches, instead of 21 cubic inches as found. And in proportion as the lung contracts the specific gravity increases, leaving it of a density of .288, life data, instead of .343 or .746, the extremes of what he claims as life data of specific gravity. Therefore, if this is his meaning he reasons himself out of the range of probabilities, *i. e.*, if this body died of hemorrhage. If it did not then its condition corresponds with post mortem hemorrhage, and is still inconsistent with his theory of death from hemorrhage and *circumscribed apoplexy.*

The last and perhaps *not least point* relied on by Dr. Clark was, that "blood bubbled up in wind pipe by raising arm after death, would show that blood had been drawn in in life, thus mixing it with air. That could not be so if suffocation had produced the death, as in that case there would be no air in motion."

He states that all the blood "coagulates in death, by cutting throat, and hemorrhage and forms into clots around and in the wound," and in a cutting like this "the arteries would continue to drip as long as the heart beat and until coagulation of the blood in the body." (T.) Now, 22 hours after death, and cold weather at that, every drop of blood

**displaced $17\frac{1}{2}$ oz., giving a specific gravity of .729, suspended in a stop jar 55 days, the drainage was $9\frac{1}{3}$ oz.; the lung then weighed $4\frac{1}{4}$ oz., and displaced 6 oz. of water, the specific gravity being .680. Here it will be seen that in 55 days, more than two-thirds of the ordinary weight of the lung has drained from it in fluid matter, leaving the lung tissue not yet dried weighing not more than $4\frac{1}{4}$ oz."**

would, of necessity, be coagulated in the bed, and agreeably to this theory the body, wound, and wind pipe, and there could be no "fluid blood to bubble out." For instance, in cutting the throats of animals, also, in suicides, by cutting one or both of the carotids, in an hour or two, at farthest, there is not one drop of fluid blood, it is all separated into coagula and serum*, and since "fluidity of the blood is common to all modes of asphyxia" and since this was precisely the condition of Mrs. Budge (agreeable to their own theory) we have no evidence of any coagula, except, perhaps, some small ones in the bed. If (on the theory of suffocation) her throat had been cut in the third stage of asphyxia, then I ask, Where did all this blood go to? when it is known that accoucheurs say in *post partum hemorrhage* that 15, 20 and even 30 lbs. of blood is lost in the course of a few hours (also in decapitation 24 to 28 lbs. of blood is lost). The whole bed including the straw as well as feathers and tick, would be saturated, and would even extend through to the floor, leaving a deposit of several pounds of blood on it; and as to the sudden loss of blood having any bearing on a death produced by this kind of cutting it is quite needless for me to say that there is none since fainting has little, if any, effect on the amount of blood lost when its exit from the heart is as free as when both carotids are cut. The heart being an involuntary organ, its action is not materially interfered with, even though syncope supervenes, and more especially, if the blood finds a ready exit as it would in this instance. During syncope, the force of the circulation is somewhat diminished in the system, *i. e.*, in the *vessels*. Even during this condition if the large arteries (carotids) were cut, the blood would spirt furiously and the amount lost would be nearly the same as if cut during full consciousness, so that syncope, and the small loss of blood are obviously out of the question. Thus, if this body, in life, contained 25 lbs. of blood and there was no more than a quart lost, where (on the theory of suicide) had all the blood gone? I will answer! *This body was dead or nearly so before the throat was cut* and the residuary amount of blood in the *large vessels* was driven, by the gases generated from its own decomposition, into the capillaries, and out of the wound, and thence settled to the most dependent position, just where we found it, and so reported in our notes of the case. This theory of the *medical* counsel is sadly wanting in consistency. Now if she had been asphyxiated and life not quite extinct, then the blood which flowed in the bed might coagulate imperfectly, while the portion which remained in the body *would*, of *necessity*, be *fluid*. On the contrary, if the cutting was done in full life, she would have bleed out at least 16 to 18 lbs. agreeably to his own theory, and hence there would not have been left the "*fluid* blood to *bubble* out" 22 hours after death, so that "stuffing with cotton bat, sewing up, compressing and bandaging did not arrest the bleeding."

Now suppose Mrs. Budge had died of "asphyxia," and the throat cut even after she is entirely dead and cold, the trachea filled with fluid blood. Then the arms are lifted, the ribs elevated and depressed alternately so as to imitate respiration, would not the "fluid blood" and "air" be churned up as thoroughly as it could be under any other circumstances? Add this to the fact stated by their witness Dr. Olmstead, that "3 to 6 ounces" of fluid blood oozed out of the neck during its dressing and this was only suppressed by compress and bandage and we have I apprehend data quite sufficient to establish the fact that *Mrs. Budge died before her throat was cut.* On the contrary if this throat was cut in

*See Appendix.

full life the blood is all clotted in cut, wind pipe, &c., so there is "no fluid blood to bubble up" or churn, even though all the appliances possible were used to effect this end.

The effort made by the defence to show, through their medical counsel that elongated spots of blood were found on the sleeve of the right arm, and fore-arm, when the evidence was that there was *none* in the direction in which the carotid arteries pointed, whether she were in the sitting, or lying position, is *foolish*, in the extreme, since no heart or any other force pump ever propelled a stream without there being drops extending continuously from the point of gravity, (*i. e.* directly under the nozzle,) to the most extreme point to which the fluid was thrown, and so here the stream could not spirt up, on the face, and leave the intervening neck clean, and still more preposterous would be the idea that the blood could spirt laterally over the sleeve, and still leave the intervening space on the bed entirely clean, and besides agreeably to their theory "blood does not spirt 'from a' carotid artery" when cut as this was.

So also if she were sitting up on the bed, (as has been *gravely* suggested) and held this saturated sheet up before the neck, still the right hand would be between the sheet and neck, and would of necessity become covered with blood, *i. e.*, if the flow, or jets on the sheet, were sufficient to saturate its substance—the anterior part of the body would necessarily be covered with blood, and if, in the same (sitting) position, the sleeve of the right arm was blooded, as above stated, the space on the bed, *between* and *beyond* the arm would necessarily be covered with *blood* from its spirting, *on the same theory—suicide.*

Another point worthy of notice presented by Dr. Clark is that "there was on back of (left) lung more" blood than natural. It is such as is found in every body after death.(M) Now he states that this body is empty front and rear, capillaries and all, and still there is static congestion of this lung; if this body (which he says died of hemorrhage) is empty "entirely" why should not the lung be also "empty." In animals bled to death, the lungs and body are equally exsanguined, and hence the static congestion should be equal (in death by hemorrhage.) Doctor Clark further states that the weight of the left lung (of Mrs. Budge) was about 13 ounces. "In life it should have been 17 ounces." If we adopt the data of 4.50 ounces for this lung if bled to death—17 ounces as his life data, two-thirds of which, or 11.33 ounces is lost by hemorrhage, leaving only 5.67 instead of 13 ounces as found by him.

The same figures are applicable to the right lung which at death could not have weighed less than 17 ounces when the life data "would be 19 ounces."

Then starting with 5.50 ounces, the weight if bled to death, 19 ounces as the life data, two-thirds of which, or 12.66 ounces, is lost in hemorrhage, leaving the weight at the time of death 6.33 ounces instead of 17 ounces, the least amount it could have weighed at the time of death, and perhaps much more.

Hence, taking his own figures as data to reason from, we have I apprehend more reason to adopt some other theory to account for the condition of these lungs than "throat-cut" and "hemorrhage" in life. Again, notwithstanding "there was on back of (left) lung more blood than natural,(M) he goes on to say, "no congestion in that lung before death—no evidence of it, but evidence to the contrary."(M)

Now, let us see what this "evidence" is. He says, "there is in lungs (of an adult) during life not more than 35 to 40 ounces" (M), taking 35

ounces for a small woman, and the left lung, according to Doctor Clark's statement, is two ounces less than the right, which would leave it (the left) 15.5 oz. as the life data; now, if (his data, $\frac{2}{3}$ or) 10.33 ounces are lost by hemorrhage, this would leave the absolute weight of Mrs. Budge's left lung, at death, 4.15 oz., instead of 13 ounces as found!

Now, the right lung (from the same figures, his data) would present an absolute weight, at death, of 6.5 ounces, instead of 17 ounces as found. Now, adopt any mode of reasoning from the figures presented by Doctor Clark, and we find that these lungs were "congested before death," and hence "more blood than natural in posterior part of lungs," while both lungs, at death, were nearly three times as heavy as they should have been, in death by hemorrhage! Now, to follow up the analogy still further, I quote from Taylor, p. 319, table of mean weight of infants lung before and after respiration: 649 grs. before respiration of a full developed infant, 927 after full respiration, giving an increase of 278 for full respiration and establishment of the life data of blood in the lungs; this, then, resolves itself into a mathematical problem.

Now, Doctor Clark has established by the process of "drainage" (see note-report of case copied from bulletin of the Accademy of Medicine) what he thinks is near the weight of an exsanguined lung, we then take this as the data: Then take 649 grains for the child before respiration, 729 grains after respiration, what will be the increase on $4\frac{1}{4}$ oz. (2,040 grs.),=567,120 (or 6 oz. and 15 grs.), so that, upon this data, this left lung with its blood in life would have weighed 6 oz. and 15 grs., instead of 17 oz. *Ergo*, Mrs. Budge's left lung should have weighed no more than 6 oz. with the natural life blood in it, or $4\frac{1}{4}$ if bled to death; hence Doctor Clark's 17 oz. as the life data is entirely too much, and our statement that the lungs were congested, is not so far from the truth (as Dr. Clark supposed) on the theory of death from hemorrhage. And his statement of "more blood than natural" in "the posterior part of the lung," (though inconsistent with some of the other statements made by him,) is quite consistent with asphyxia and post mortem throat cutting, since the fluid in the jar in which it was placed (Mrs. Budge's left lung), subsequent to its removal, was highly discolored with blood, while there was a large deposit of debris of broken down fibrin and blood in the form of a flocculent sediment in the bottom of the jar, this *could* not have existed if she had died from hemorrhage from cutting throat, as this was (on theory of suicide). Hence, I say, that the *cutting was done after death.* I have examined all the points contained in the following quotation from Doctor Clark's testimony, except *that which so emphatically* denies the possibility of death from any other cause than *hemorrhage.*

I have insisted from the first that this woman was *dead before* the *throat* was cut, and that the cutting was done to cover the *crime* of MURDER, and suggested asphyxia—by strangulation, suffocation, smothering or some other analogous cause, as the probable mode of death. The condition of the lungs, tongue, pharynx, &c., &c., were inconsistent with death from hemorrhage, and I here again quote the whole paragraph where he (Dr. Clark) says: "The condition of the body of Mrs. Budge externally—the absence of marks of violence upon it, the character of the wound in the neck, the condition of the body internally, the empty vessels of the circulating system, the absence of blood, together with the condition of the organs and parts of the body seen by me enable me to state *confidently* what was the cause of *death*, as strong as *language*

can *express* it, that she did not die of *suffocation* or *strangulation*, but from the loss of blood beyond a doubt." T.

Now, I will endeavor to show that the condition above mentioned was not only consistent with *asphyxia*, but that those appearances could not well have been produced by any other cause. I will also endeavor to show that death from all forms of asphyxia leaves nearly the same *post mortem* appearances as to congestion, taking into consideration the fact that time effaces this congestion in the heart and large vessels; that *cutting the jugular veins disgorges the heart and large vessels* connected therewith, and by *induction* also *may relieve* at most *some* of the *congestion* of the *lungs*, or at least that portion which is situate above the level of gravity; that where the *inspection* is *delayed some time* after *death*, the *heart* and *large veins are empty*; that when the *vessels* of the neck are not *constricted* during the *production* of *asphyxia*, the *face* is *pale;* that where there are *marks* on the *body* of the *asphyxiated person, post mortem hemorrhage would* relieve or *obliterate* most or even *all* of them; that *asphyxia* may produce *circumscribed* as well as *diffused apoplexy;* that (in death from asphyxia) blood is found in the trachea and bronchia, and hence may be sucked into the bronchial air-cells, producing *circumscribed apoplexy*, which (I have previously shown) *cannot* be *produced* in *any way* by *cutting* the *throat* and *hemorrhage* in *life, as this was supposed to have been* (by Dr. Clark).

The first point I shall notice (from Dr. Clark) is, "that *congestion* resulting from *strangulation* or *suffocation* would be the *same* in *both lungs* —having regard to their relative size." (M) Now by a series of careful experiments on the animal (sheep), I find in death by hemorrhage, where the cutting involved the same as did the wound in Mrs. Budge's neck, that the difference in weight of the right as compared with left lung did not exceed 2½ ounces; while in those suffocated or strangulated by a slow process, the difference was in some instances as much as 6 ounces, but always greatest in the right lung. (See tables 1 and 5, p. 110.) And again, he says: "If she had been smothered the (left) lung should have been above average, and its weight would have been at least 22 ounces." (M)

Now suppose this lung had weighed 22 ounces at the time of death, and the throat cut after, then the heart would have been emptied by the *post mortem* hemorrhage (and changes which would leave the lung as found, 13 ounces), and if the *hemorrhage alone* did not *relieve* the *congestion*, subsequent *post mortem changes* by the *generation* of *gas* would *effect* this *most fully;* so that even if this lung contained at death 22 ounces, 13 ounces would be a *great weight* after the *lapse* of *four months*, and the *throat cut at that;* hence his statement that "*cutting her throat after smothering would not have lessened* (the) *weight* of *lung*," (M) is not *borne out* by *experiment*, since it will be seen by reference to the quotation from Taylor, where cutting the veins of the cranium or neck (in death from asphyxia) drains the heart and large veins of the thorax. The following case is quite in point, except that its throat was not cut at all as Mrs. B.'s was: Case of W. B Kirwan; Taylor, p. 504; death from drowning. "It had been lying nearly a month in a wet grave. * * The lungs were congested at the back and lower parts, arising from engorgement of blood; the internal organs were not decomposed; the heart was healthy; its cavities, as well as the large vessels leading to it, were empty." In this case one of the witnesses stated that "the engorgement in those lungs was greater than he had ever seen in a case of drowning;" and still like Mrs. Budge, the "*heart as well as the large*

*vessels* leading to it *were empty.*" Now upon careful *inspection* of *many bodies*, after *partial decomposition* of the *blood*, I find the *heart* and *large* vessels *empty*, while the *lungs* are *materially affected* by *drainage* into the cavity of the *chest.*

*Appropos*, to elucidate still further this matter of the *emptying* of the *thoracic viscera* and *particularly* the *fluid* portion of it, I will quote from Watson on Homicide, (p. 354) in which he says: "If a person has died from asphyxia and if the head is opened first the whole blood congested about the right side of the heart may escape from the cranium from the jugular veins, and thereby materially alter the appearance in the thorax."

Now this fact alone would account for the emptiness of the heart, (in Mrs. Budge) while much of the congestion which *existed* at the time of death either *ran* out of the *jugular* veins by *gravitation* and the natural *elasticity* of the heart and *v ssels* or was *driven* out by the *development* of *gas*, or leached into the *pleuritic* cavity of the *chest.* Add to this the fact (Taylor, 528) that "if the subject (asphyxiated) has *remained* a long time in water, (or ground) (see ib. page 534) before inspection the *viscera* of the *thorax will not* present the *characteristics* above *described*, (*i. e.*, congestion of the thoracic viscera,) independently of the changes which take place in consequence of putrefaction, the right *cavities* of *the heart* and vessels *immediately* connected with *them* may be found collapsed and generally destitute of blood," thus showing the inconsistency of Dr. Clark's statement that "if she (Mrs. Budge) was smothered and (the throat) then cut, not much more than half a pint of blood would run out, may be less. The circulating system, in that event, (would) be full of blood, except near the cut, * * (and) If person (is) smothered and throat cut (afterwards) no blood would flow from artery (except) what gravity would drive out by contraction of artery" M. This I find from a series of observations on bodies dying from asphyxia, from drowning, accidental suffocation, &c., is *untrue*, in proof of which I will quote from Watson on Homicide, (p. 115) in which he states that "the most *important* and *characteristic appearance* which is *observable* on *dissection* after *death* by *asphyxia*, is the *great accumulation* of *blood* in the *right* side of the *heart*, and its great *veins* the *pulmonary artery* and *vessels* of the *lungs*, while there is a *comparatively empty* state of the *left side* of the *heart*, the *large pulmonary veins*, and the *artery*. *This gorged* state of the *right* side of the *heart* and *lungs* is *greatest* where the *asphyxia* has been *slow* and *gradual*, by the *access* of air to the *lungs* not *having* been *completely* prevented. When *asphyxia*, on the other hand, has caused death *quickly* and *suddenly* there is *little* or *no unusual congestion* of *blood* in the *lungs* or *heart*. *Besides* the *congestive* state of the *heart* and *lungs* the *veins* of the different *organs* in the *abdomen*, *particularly* those most *dependant* are *generally* found to be *unusually distended* with *blood*. The vessels of the *brain*, *too*, are in *some* cases *more distended* with *blood* than is *commonly* observed in cases of *death* by other *causes*. In cases of death by *asphyxia*, as in most cases of *sudden* and *violent death*, the *blood* is *usually* found in a *fluid state*, or very *imperfectly coagulated*. The *blood* therefore *flows* FREELY OUT FROM the LARGE VEINS WHEN they ARE DIVIDED; VENOUS *blood* may sometimes be found also in the large *arteries*." Watson on Homicide, p. 136, says: "In consequence of the *blood remaining* FLUID (in *death* from ASPHYXIA) * * the *position* in which the *body may have* been *placed*, may *have removed* the CONGESTION about the HEAD and FACE. *The* GREATER PART of the BLOOD MAY *also* BE REMOVED from *the* BODY *by* OPENING *the* JUGULAR VEINS *and* DESTROYING the CONGESTIVE APPEARANCE." And in proof of the blood being fluid in all cases of *asphyxia*, I will

quote from Doctor Clark's statement, which is, that "fluidity of the blood is common to all kinds of asphyxia." N. So, also, Watson (p. 155) states that "the blood of drowned persons is generally found to be *fluid*, as in *other cases* of *asphyxia*," and as the point relied on by Doctor Clark for proof positive of hemorrhage during life, and in opposition to death from asphyxia, viz, the coagula said to have been found in the *bed* near *hip*, &c., and *slight* or *imperfect coagulation* about cut, I will only give the following quotation from Taylor's Medical Jurisprudence, (p. 217,) in speaking of the coagulation of blood, he says: "Some hours may elapse before it (blood) coagulates in the heart and body, hence blood, although it *would not* be *found* diffused as by *spirting*, might, in so far as *coagulation* is concerned, *assume* the *appearance* of *having been effused from* a *living body*."

Now this is precisely the case of Mrs. Budge where there was no *spirting*, and at most but slight coagulation, while at the time of the inquest 20 to 22 hours after death, there was *fluid blood* oozing from the tissues, vessels, and trachea, which was spoken of as "3 *to* 6 *ounces* of *fluid blood* "*sponged* out in the dressing of *this wound* which *required* stuffing, *compressing and bandaging* to *prevent* the *flow* of *fluid blood continuing*. Notwithstanding *this*, it *still oozed* out by the *side, and through all* the *dressings*, while the bubbling "of air and blood" from the trachea when the arms were elevated and depressed producing artificial respiration, which was relied on as evidence of death from hemorrhage, was in fact the best evidence of death from asphyxia, since if this blood had been deposited in the trachea from the living body it would have been SOLIDLY *coagulated;* the same would be true of the "fluid blood" from the wound, and hence no "fluid blood" could flow or "bubble out" as there would be no BLOOD to "produce it." As to the presence of blood in the trachea and bronchia, which would account for the apoplectic condition of the right lung (taking Dr. Clark's statement that the 3 pieces of lung (about 2 ounces,) which he considered circumscribed apoplexy, and which he says could be produced by "cutting throat and severing trachea" at the same time. On this point I will show that blood can be effused in the bronchia during the production of asphyxia, while it cannot be drawn into air cells, where death *is* produced by this mode of cutting, *under any circumstances*. In Watson on Homicide, p. 115, in speaking of the effusion of blood, in asphyxia, he says, "Blood or bloody froth is often found to have issued from the *nose, mouth*, &c.; internally, the appearances are somewhat various according to the manner in which the *asphyxia* has been occasioned and whether death had taken place quickly or slowly," and in speaking of the following (case 126, p. 164) he states "that forcible compression of her chest (was effected) * * with his (the murderer's) knees, * * there was bloody mucus in the trachea and bronchial tubes" so that, in order to have blood sufficient to produce circumscribed apoplexy, it is not necessary that "cutting the throat and severing trachea at" the same time should take place that the requisite amount of blood should be present. Since Doctor Clark, who is the only author (that I can find) who speaks of circumscribed apoplexy produced by throat cutting (as Mrs. Budge's was), acknowledged "he had never seen one," and though he live as long as Methuselah, I can assure him *he will never see one*.

Now another point adduced by Dr. Clark to prove death by hemorrhage and not by asphyxia, he quotes the "empty heart and large vessels"—that they were "empty and colorless." That they were empty I do not deny, but that they were "colorless" *I do deny, most emphatically.*

Now in reference to the *empty vessels and heart* occurring some time after *asphyxia*, I have only to say that the following condition as detailed by Taylor (in his Medical Jurisprudence) does exist in death by asphyxia, where none of the large vessels are severed, how much more reason would we have for expecting to find this empty condition where all the large vessels of the neck were severed near the sternum. In *asphyxia* from drowning Taylor says (p. 528): "On examining a body internally we may expect to find in a recently drowned subject that the *viscera* of the *thorax* will present the *appearances indicative* of *asphyxia.* The *right* side of the *heart* and the *vessels* connected with *them* (pulmonary arteries) are *distended* with *blood,* * * the *venous* system is generally *gorged* with *dark* colored *blood,* and the left *cavities* of the *heart* are *empty,* or contain only a small quantity of black blood. * * If the *subject* has *remained* a *long time* in *water* before *inspection* the *viscera* of the *thorax will not* present the *character* above *described, independently* of the *changes* which *may* have *taken place;* in *consequence* of *putrefaction* the *right cavities* of the *heart* and *vessels immediately connected* with them MAY be FOUND COLLAPSED and GENERALLY DESTITUTE of BLOOD." So in Mrs. Budge, who had lain four months in a grave, thence the heart and large veins were empty.

Taylor (page 557), post mortem appearances in death from asphyxia by hanging, says, "Internally we meet with the appearances described under the head of Asphyxia, *i. e.* engorgement of the lungs and venous system generally with dark colored blood; the right side of the heart and great vessels connected are commonly distended with blood. But when the *inspection has been delayed* for *several days this* distension may not *always be observed.*" Watson on Homicide (p. 162, case 125), in speaking of a case of drowning, some days previous to dissection, and though in this case the "lungs were healthy * * and of a more livid color than natural, and their vessels filled with venous blood * * the *heart was almost empty,* the *right* side was *particularly empty and flaccid.*" Now in reference to Doctor Clark's statement, that suffocation and strangulation in opposition to other forms of asphyxia left distinctive marks such as "effusion of blood under scalp, under pleura * * pericardium," &c., I shall only state, that if blood can be forced out into the cellular tissue of these parts (in the form of ecchymosis), why not into the pleural cavity, bronchia and air cells and cellular tissue of the lung in the form of what we found, *i. e.,* diffused apoplexy—congestion and engorgement, also a very small point (as large as a hazel nut) of circumscribed apoplexy. In answer to the statement of Doctor Clark, I will quote a case in point with this exception, that its throat was not cut after the induction of asphyxia, as *we suppose* Mrs. Budge's was.

Watson (p. 117), says, "After death by suffocation, the usual marks of asphyxia are generally present." Also, page 122, case 106, of strangulation, "Some blood was issuing from the mouth * * the veins of the neck and upper part of the chest when divided poured forth dark colored blood very copiously. The right side of the heart and large vessels contained dark colored fluid blood, * * lungs natural in color and consistence, though collapsing less than usual; when cut into the incision was a livid, fleshy (circumscribed apoplexy) color, and venous blood was copiously poured out. The congestion, particularly in the right, seemed considerable." Now this is a case precisely in point with Mrs. Budge. Now Watson's case was known to have been *suffocated* and when on dissection the medical jurist cuts the veins, a large amount of venous blood is poured out. So also when the *murderer* cut Mrs. *Budge's* throat, after *asphyxia.* the veins also discharged a considerable

*amount* of *blood.* Again in Mrs. Budge, like Watson's case, you have *congestion* and *engorgement,* and *most* in the *right lung,* while the *diffused* apoplexy was so *considerable* that they did not "*collapse readily,*" and when cut into, presented a "*livid flesh color,*" *evidently apoplexy* of the *diffused and perhaps circumscribed variety.* While if careful inspection had been instituted it would probably have presented some points of *circumscribed apoplexy,* from the blood *being sucked into* the *air cells* from the trachea and bronchia in the *struggles for air.* This would be even without Doctor Clark's desiderata, *i e.,* "*throat cut*" in order to have the *requisite* "*blood in air cells.*" Another point insisted on by Doctor Clark, is that "neither strangulation nor suffocation would force blood into the pleural cavity." (M) As to this, I cannot contradict the statement, since I have no data. When I first made this examination, I stated that the fluid in the right cavity of the pleura was blood; I so judged from its consistency and general physical characteristics. In this statement, I may have been mistaken, though reasoning from analogy we find blood in other shut sacs, such as the arachnoid, and this exudation, takes place without perceptible lesions, called "exhalation," while the fact that this blood coagulates and even becomes organized where life is prolonged some hours or days. Now, supposing this (fluid in the right cavity) to have been pure blood and effused before death, the carbonated condition of the blood, from the induction of asphyxia, would have been a valid reason for its non-coagulation in the pleural cavity. On the subject of effusions into cellular tissues and the arachnoid, without apparent lesion, I quote from Solly on the Brain, p. 378: "Extravasations on the surface of the brain have sometimes been described as meningial apoplexy. This is divisible into two kinds, one into the cavity of the arachnoid, the other into the sub-arachnoid tissue. Effusion in the arachnoid cavity is *never* the *result* of *such* a *decided rupture* of the *vessels* as is visible to the *naked eye,* and *hence* it has *been called* an *exhalation.*" In this case the legal, through their *medical counsel,* insisted that this "exhalation" could not permit the passage of the blood—that there must be a perceptible lesion, in order that all of the constituents of the blood could pass through. Now if there is none in the arachnoid membrane, why should there be *ever* "a decided rupture of the vessels * * visible to the naked eye in case of effusion into the pleural cavity," (idem) page 380, "Apopletic effusions on the surface (of serous membranes) generally arise from the rupture of small vessels; sometimes no rupture whatever can be found." Now as to the analogy of the serous membranes, I quote from Gray's Anatomy to confirm it. He states, "the arachnoid, like other serous membranes, is a shut sack, and (like the pleura,) consists of a parietal and visceral layer." There are instances in which large effusions take place, sometimes even nearly surrounding the entire brain, which we generally find coagulated (showing that it is pure blood), still "the effusion in the arachnoid is never the result of *such decided rupture* of the *vessels* as is visible to *the naked eye,*" and hence Doctor Clark's medical advice to his legal associates is *premature,* and unsustained by the *best authority* in the world.

I will present some figures to still farther elucidate the point of the absolute weight of lungs in certain modes of death—their bearing will be seen at a glance. I will also elucidate some of the points raised on the murder trial by the defence, which no doubt emanated from Doctor Clark, and since some of them were quite novel to me, I was then unable

to give a satisfactory answer. I therefore present the result of my subsequent investigations in this connection.

I examined a muscular woman, weighing 140 lbs., and bled to death, (she lost, as was supposed, 16 to 20 lbs. of blood), her *lungs* weighed 14.75 oz., while Mrs. Budge's lungs weighed 30 oz. If this woman had weighed no more than Mrs. Budge, her lungs ought to have weighed only 10.32 oz., on the data of equal muscular weight, and death from same causes. Hence Mrs. Budge's lungs weighed 20 ounces more than they should have weighed, on the theory of death from hemorrhage.

Taking the above data I think the following tables will be about correct when they are compared with those taken from the animal. They are as follows :

10.33 oz. is the weight of the lungs of a sheep, bled to death.

17.10 oz. is the weight of the lungs of a sheep when nearly suffocated, and then bled.

29.37 oz. is the weight of the lungs of a sheep dying from suffocation and throat cut after. (See table No. 5.) On the data of the woman bled to death:

10.03 oz. should be the weight of Mrs. Budge's lungs if bled to death.

17 oz. should be the weight of Mrs. Budge's lungs, partially suffocated and then bled to death.

29.50 oz. should be the weight of Mrs. Budge's lungs suffocated and cut after death. (Table No. 8, p. 112) Now, the degree of congestion might be much greater than this, depending upon the weight of the body and the means used to effect death. In one instance I found the two lungs of a man (weighing 160 lbs.) strangled and suffocated, weighing 105 oz.; and since the mode of suffocation of the sheep was effected without any struggles, it being produced by close confinement in the cars, hence the congestion and absolute weight would not be as great as it would if done by manual efforts.

The amount of drainage of bloody serum from the lungs depends upon the mode of death. (Table No. 8.) When death takes place from full arterial hemorrhage there is no drainage up to the time of decomposition, (Tables No. 8, and No. 1.) while from those dying from other causes there is an indefinite quantity, depending upon the mode of death and the degree of congestion. (Tables No. 2, 3, 4, 5, 7, 8 and 9.) In the above case of death from hemorrhage there was no effusion of serum during decomposition.

In a case of a man weighing 120 lbs., and dying of cancer of the stomach, where the lungs were exceedingly light (both lnngs 12.16 oz.) there was no effusion during decomposition, (Table 3.) In cases of drowning I have found from 20 to 40 oz. of bloody serum effused. (Table No. 8.)

TABLE No. 1.

Changes in Density of Sheep's Lungs by Throat Cutting.

| DAYS AFTER DEATH. | WEIGHT, 120 lbs. | | | | WEIGHT, 140 lbs. | | | |
|---|---|---|---|---|---|---|---|---|
| | Right. | | Left. | | Right. | | Left. | |
| | Wt. | Den. | Wt. | Den. | Wt. | Den. | Wt. | Den. |
| 1st. Wednesday | 6.85 | .537 | 5.75 | .500 | 11.06 | .589 | 8.52 | .608 |
| 3d. Friday | 7.14 | .519 | 5.88 | .547 | 11.28 | .557 | 8.78 | .566 |
| 5th. Sunday | 7.36 | .516 | 6.11 | .490 | 11.83 | .493 | 8.90 | .531 |
| 7th. Tuesday | 7.38 | .591 | 6.29 | .536 | 11.76 | .547 | 8.86 | .571 |
| 9th. Thursday | 7.50 | .586 | 6.26 | .617 | 11.81 | .622 | 8.85 | .512 |
| Total increase in weight | .65 | .... | .51 | .... | .75 | .... | .33 | ..... |

TABLE No. 2.

Copy of Experiments to ascertain Changes in Weight and Density of Human Lung.

| DAYS AFTER DEATH. | RIGHT LUNG. | | LEFT LUNG. | |
|---|---|---|---|---|
| | Weight. | Density. | Weight. | Density. |
| 1. Saturday | 5.02 | .647 | 4.31 | .594 |
| 3. Monday | 4.27 | .... | 3.92 | .... |
| 5. Wednesday | 4.05 | .600 | 3.72 | .573 |
| 7. Friday | 3.92 | .682 | 3.54 | .615 |
| 9. Sunday | 3.69 | .739 | 3.36 | .671 |
| 11. Tuesday | 3.56 | .... | 3.28 | .728 |
| 13. Thursday | 3.44 | .763 | 3.19 | .750 |

TABLE No. 3.

Changes in Density of Lung.

Man, aged 40, died of cancer of stomach and liver. Weight 125 lbs. After the first density was observed, the lungs were placed in glass jars, covered with india rubber. The right lung lay on the bottom of the jar; the left was suspended from a string above.

The right lung effused 1.15 fluid oz. of blood; the left lost 1.4 fluid oz.

| DAYS AFTER DEATH. | RIGHT LUNG. | | LEFT LUNG. | |
|---|---|---|---|---|
| | Weight. | Density. | Weight. | Density. |
| First day | 8.0625 | .442 | 5.750 | .469 |
| Tenth day | 7.0625 | .406 | 4.391 | .399 |
| (Adding effusion) | 8.21 | .442 | 5.790 | .467 |

TABLE No. 4.

Changes in Density of Lung.

Boy, aged 17, weighing 100 lbs. Died of suffocation.

| DAYS AFTER DEATH. | RIGHT LUNG. | | LEFT LUNG. | |
|---|---|---|---|---|
| | Weight. | Density. | Weight. | Density. |
| First day | 13.19 | .659 | 9.55 | .658 |
| Twenty-first day | 6.94 | .365 | 4.92 | .505 |
| (Adding effusion) | ..... | .517 | .... | .648 |

These lungs had been preserved, one in a closed jar in an ice-chest, the other in a closed jar at the ordinary temperature of the air, about 68°.

The former had exuded six fluid ounces of blood, which would give for average density of lung and blood, .517.

The latter had lost four fluid ounces of blood, which gives for average density of lung and blood, .648.

TABLE No. 5.

Density of Lungs of Five Sheep of nearly equal weight.

| MODE OF DEATH. | Hours after death. | RIGHT. | | LEFT. | |
|---|---|---|---|---|---|
| | | Wt. | Den. | Wt. | Den. |
| 1. Bled to death by severing carotids | 42 | 5.33 | .592 | 5.00 | .645 |
| 2. do do | 24 | 5.62 | .700 | 4.08 | .740 |
| 3. Bled to death after partial suffocation | 4 | 9.90 | .514 | 7.20 | .655 |
| 4. Suffocated | 24 | 16.39 | .819 | 12.92 | .861 |
| 5. Suffocated; distended with gas from decomposition | 48 | 17.48 | .721 | 11.89 | .660 |

TABLE No. 6.

Lung, with normal Amount of Blood, the root of the lung being ligatured before weighing.

| | Weight. | Density. |
|---|---|---|
| Density while ligatured | 10 oz. | .620 |
| After removing ligature | 10 oz. | .607 |
| Difference between densities | ..... | .013 |

TABLE No. 7.

Sheep Bled to Death, and Blood allowed to flow into the Trachea and Obstruct the Bronchial Tubes.

| | Weight. | Density. | Loss by effusion. |
|---|---|---|---|
| | oz. | | oz. |
| Density of both lungs taken immediately | 18.5 | .528 | ..... |
| Enclosed in sealed jar. Density, 10th day | 17.5 | .500 | 1 |
| Enclosed in sealed jar. Density, 20th day | 16.75 | .424 | 1.75 |

Loss of weight of lungs ..... 1.75 oz.
Decrease of density ..... .104

TABLE No. 8.

Densities of Human Lungs.

| MODE OF DEATH. | Weight. | Time after death. | RIGHT. | | LEFT. | |
|---|---|---|---|---|---|---|
| | | | Weight. | Density. | Weight. | Density. |
| | lbs. | days. | oz. | | oz. | |
| 1. Suicide.—One carotid and one jugular cut: body inflated with gas. No effusion | 140 | 8 | 8.00 | .762 | 6.75 | .687 |
| 2. Mrs. Budge.—Both carotids cut. Lungs alone | 96 | 120 | 9.00 | .819 | 8.00 | .665 |
| In right pleura, 8 oz.; in left, 5 oz. Effusion | 96 | 120 | 17.00 | .904 | 13.00 | .692 |
| 3. Death by severing jugular veins.—No effusion | 140 | 10 | 15.00 | .575 | 15.00 | .585 |
| 4. Death by drowning.—Lungs alone | 160 | 240 | 12.50 | .984 | 14.75 | .983 |
| In right pleura, 20 oz.; in left, 12 oz. Effusion | 160 | 240 | 32.50 | .995 | 26.75 | .990 |
| 5. Death by drowning.—Little decomposed. Lungs alone | 180 | 30 | 18.00 | .766 | 18.50 | .742 |
| In right pleura, 8 oz.; in left, 12 oz. Effusion | ..... | .... | 26.00 | .838 | 30.50 | .843 |

TABLE No. 9.

Sheep, weight about 140 lbs., bled to death lying on the back, with the head thrown back as in Mrs. Budge's case.

| | Weight. | Density. |
|---|---|---|
| | oz. | |
| Density taken immediately | 14.25 | .750 |
| Density taken 10th day | 14.75 | .590 |
| Density taken 20th day | 14.80 | .560 |
| | .55 | .190 |

No effusion from the lung, but an increase of weight from absorption of water while taking the density.

Density decreased .190 in twenty days, from blood decomposition or generation of gases, showing an increase in weight of 0.55 oz, and a decrease of specific gravity of .190.

In one case of death from combined strangulation and suffocation both lungs weighed over 100 oz., while the drainage during decomposition was enormous, and hence the statement of the medical counsel Dr. Clark, of the "drainage of 5 to 8 oz. of bloody serum being not an unnatural quantity for one dying from hemorrhage" is *untrue* and not borne *out by* experiments.

In death from suffocation in the animal, the absolute difference in weight of the right as compared with the left lung, was in some instances as much as 6 oz., (Tables No. 4. and 5.) while in death from hemorrhage it did not exceed 1 to 2 1-2 oz. (Tables 1 and 5.) The healthy lung, dying with all the blood in it, constantly decreases in weight during the process of taking its specific gravity, from day to day, induced by the leakage of bloody serum. (Tables 2, 3 and 4.) The lung which is bled to death, while undergoing the same process, increases in weight from the absorption of water. (Tables 1 and 9.) The tying of

the root of the lung before the taking of specific gravity makes an average difference only of about .013. (Table No. 6.) The susceptibility of the right lung to congestion would account for the greater amount of fluid found in one pleural cavity than in the other, in Mrs. Budge 2 oz. in lung and about 3 in fluid. (Tables 4 and 5.) The escape of bloody serum which takes place after death from the lung, decreases its specific gravity in proportion to its loss. (Table 4.) The escaped bloody serum, when added to the lung at any time before decomposition of lung tissue, will give the approximate specific gravity at the time of death. (Table 3 and 4.)

The specific gravity steadily decreases during the drainage of serum, and the development of gases up to the time of decomposition of the lung tissue, (in one instance, as much as .104, see table 7, and .190, table 9,) after which it suddenly decreases, and the addition of the bloody serum (drained from the lung) to the lung itself, gives the original weight and specific gravity. (Table No. 9.) The comparative weight of the lung to the body depends entirely upon the mode of death.

The residual amount of blood in the brain at the time of death is decomposed before the brain is, and hence gases may escape where the vessels are cut, but the blood cannot escape in any appreciable amount.

Another point in reference to the left lung upon which Doctor Clark dwells with much emphasis. He states, "none of its connections had been disturbed, it was perfect." M Now, I stated at my examinations that both lungs were removed, the right we brought to Albany, while the left was returned to the chest—with reference, however, to the *left* I was mistaken, it being a matter not of vital importance either way, though Doctor Clark, and his legal associates, construed it into a wilful attempt to misrepresent. Be this as it may, I leave it for the profession to decide. Doctor Clark knows very well that, when he was in Albany, on his way to make the examination of this body, Doctor Porter and myself showed him all we had in the way of parts or parcels of this body with a degree of frankness that must now bring the blush of shame to his cheek, when he remembers how that frankness has been requited. His positive denial of all that occurred (of material importance) at that meeting of *entire strangers*, as we were, is too apparent, when it is known that his statement is that he "might have joked upon it (the conversation which took place at that meeting)."M* I think it a serious joke, and one which should not often be indulged in among strangers. I acknowledge, in the first place, that, unlike Doctor Clark, I make no pretensions to physiological or pathological *lore*, and hence there may have been many points upon which I was not well versed; some points there were upon which I was doubtful, and many of them had no bearing, in fact, and were intended only to confuse the medical witness, and make him appear to a disadvantage on the stand. Of this, however, I do not complain.

Mr. Budge's legal counsel, I presume, were paid, as were also his medical, if we are to believe Dr. Clark's statement, which is, "I received $250

*The following is the substance of the conversation as sworn to by myself as having occurred on this occasion. Doctor Clark (after looking at the chewed tongue) said, "You must not blame us, we are going up (to Greig, Lewis county,) to investigate this case very carefully, and if they (the Medical Counsel) could *find* any *loop hole* out of which they could (help) this *man* (Budge) they should do it." M. In answer I said, "*very well!* I *did not know* that *this* was the *duty of a medical man.*" M.

Again, he denies that the fact sworn to by Doctor Porter, that part of the right lung was congested. Doctor Porter swore that "Doctor Clark said (to him in the Laboratory of the Albany College) that part of (the) lung was congested." M.

for the first five day's spent in the examination." (Post mortem.) "I have spent in all fifty to sixty days' in the examination of this case. I have received nothing but $250, and have expectations of receiving more. (T.) Now, if the doctor receives pay in proportion to the first installment for the first five days, it would amount to the nice little sum of $2,500 to $3,000. Contrast this with the $000 that we received from the county where the Judge (Bacon) declares a second inquest illegal, and hence void! Consequently all bills which otherwise would be audited by the authorities are dishonored. Neither Prefessor Porter or myself have received the first farthing as pay, either for time or for any of our disbursements. Hence, taking all the circumstances into consideration, it should not be expected that I, as an *humble citizen* of a *country town*, could cope with one so amply feed, and who "lives in *New York*," (is) *physician and surgeon—have been so since* 1835, (was) *between three and four years studying in London, Paris and Edinburgh.* I am Professor of Pathology and Practice of Medicine, and *Physician in Bellevue and St. Luke's Hospital.* I have *examined* a great number of *dead bodies, between* 3,000 *and* 4,000. (M.) I, on the other hand claim only a reasonable common sense, guided by a knowledge of the facts in the case—a just transcript of which I have endeavored to give, and leave the result to the enlightened decision of the scientific medical world.

And with you gentlemen of the society, I now leave this case; I have endeavored faithfully and fairly to present it, in all its bearing, and I desire the full expression of your views regarding it. To me it has been the most interesting medico-legal case that I have ever been called upon to examine, since the number and diversity of scientific points are worthy of the attention of a decided devotee to science; hence, I was in hopes that Doctor Clark would assist in the elucidation of the intricate questions, and reciprocate at least some of the frankness manifested towards him. *We* had no secrets in this case; we expected him to have none. As an instance of his treatment, I will simply mention, that Mr. Budge's counsel were desirous of showing that this cut might have been made while the head was flexed on the neck. In a private conversation with Doctor Clark, I asked him how the cut could be made in the fifth vertebra, and through the cricoid cartilage at one stroke, since, if the head was flexed on the neck, the cricoid cartilage corresponds with the seventh cervical vertebra. His answer to me was, "you must ask me no questions now." And again, when he presented *a part of the case* before the Academy of Medicine, New York, for discussion—though Dr. Clark did not make any public objection to its discussion; still he *by his silence* sanctioned it. Why this fear of discussion? would not his case bear the light of science? if so, why hold it back from that light? I will answer, Dr. Clark knew full well it would not bear the light—that it (his statement) was based not on the "rock," but "on sand," which washed away by the light of a little common sense. This case in all its bearings forcibly reminds one of the famous case of the Earl of Essex (which all good authority acknowledge to have been a *murder*) and when one is familiar with all the attendant circumstances, he could say with Beck, (in his Medical Jurisprudence) p. 139, vol. 2. The inquest was plainly a sham, facts were suppressed, &c.; * * * the investigation was suppressed* in a very suspicious manner,

* So in this case, the first inquest occupied but a few hours, and the second was declared illegal, and hence void. (See Judge Bacon's decision.)

The first Grand Jury (see Judge Morgan's charge,) were directed to take testimony of all persons *pro* and *con*, while for the people I believe no one but myself was examined. Profes-

and finally came to nothing, now * * * men do not take so much pains to conceal facts, unless they are aware that the *truth will hurt them.* * * * A surgeon is stated to have suggested to the coroner's jury, "that *the notches in the razor* were made by my lord against his neck bone." Now this case was presented by Dr. Hogeboom before the Grand Jury, reading the opinion of the old physicians from Taylor's Medical Jurisprudence, p. 212, and stopping short of Taylor's *views* in the case, where he says, to the above quotation, "forgetting before this (cutting into the back bone) could have been done by deceased, all the great vessels of the neck must have been divided !" *

The next case, at all like Mrs. Budge's, is that of Sellis. In speaking of this, Dr. Beck, p. 130, says: "The arteries on both sides of the neck were severed. Is it *possible* for a *man* to *inflict such a wound?* * * Again, his cravat was cut through; do men usually omit to take off the cravat when they cut their own throat?" *Apropos,* In the case of Mrs. Budge the evidence was that there was a piece of candle (in the candlestick) unburnt, showing that if Mrs. Budge cut her own throat, she first put out the light, laid down, covered herself up carefully, and then cut her throat—and this is done in the dark. Now then if there was any doubt as to Sellis having power to cut both carotids off, how much more would there be in a feeble woman like Mrs. Budge making a much more extensive cut, even cutting into the spine, and in the lying position at that. On this point, see Taylor's Medical Jurisprudence, p. 214, case of Lord William Russell: "the throat had evidently been cut while deceased was lying in bed; the blood was effused on each side of the neck only." This is the case referred to in his letter to me, in reference to *this case* (Mrs. Budge). (See page 42.) He states that "the wound in the throat must have been inflicted while the deceased was lying on her back, *i. e.,* in the recumbent posture; there was no blood on the anterior part of the body or night-dress. * * The description of the flow of blood being chiefly on each side of the neck is in accordance with the views that the wound was inflicted while deceased was *on* her back."

I have now collated all of the cases from English and American works in which there is any analogy to this Budge case, viz., Lord William Russell, murdered by Corvoiser, 1841. (See Taylor, letter p. 42.) Sellis, murdered by the Duke; and the Earl of Essex in the Tower, for political reasons. (For the full *expose* of which we are indebted to Brandon.) These three cases were at first considered doubtful, but the developments *of science* and common sense have revealed *their* true *nature,* MURDER MOST FOUL instead of SUICIDE.

So in the case of Mrs. Budge. At first sight it was considered a case of *suicide—subsequently* when people allowed the sober second thought to prevail they began to doubt; and finally the number who believed that a *murder* had been committed continued steadily on the increase, notwithstanding the attitude of *certain parties,* threat-

sors McNaughton and Porter were subpœnaed too late, and did not arrive till the jury was dismissed.

On the part of the defence were Drs. Coventry, Hogeboom and Thomas, and, I think, some of the local physicians. For result, see legal part.

The second Grand Jury indicted the Reverend Henry Budge, though even Judge Turner in this instance charged the jury to take all medical testimony, *pro* and *con,* (see legal part), Judge Morgan discharged the prisoner on $10,000 bail.

Again, on the murder trial, the prisoner, as well as medical and legal counsel, and nearly all who were in any way interested in having a verdict of acquittal rendered, boarded at the same house, while the judge and jury boarded at the same place.

* See Taylor's letter in reference to the division of vessels, &c., in Mrs. Budge's case.

ening every one connected with the prosecution of this case with dire vengeance in some form if they dared to do their duty. Of this species of abuse I received my share.

Some of the local press were threatened with prosecution if they published even the testimony taken at the inquest; other parties of the press in *adjoining* counties seemed determined to keep the truth "under a bushel." The only one of them who were disposed to examine the subject dispassionately was the *Rome Sentinel.* (See copy of article forming a part of this paper.)

The last though not least important act in the drama was the presentation of what purported to be this Budge case to the Academy of Medicine, December 18, 1861.

Here again it is sought to shut off discussion from those who were familiar with this case in all its bearings. If by thus doing it was intended to obtain an ex parte expression of an opiniron from that *honorable body, disappointment* followed, since truth, that mighty *element* did and must always *prevail,* notwithstanding all the *mal-influences* which are brought to *bear* against it from various *sources.*

The important parts of the report of this case as presented by Dr. Clark on that memorable evening is worthy of some notice in this connection.* (In reference to the testimony of Doctors Coventry, Hogeboom & Thomas, it is merely an *echo* of Doctor Clark! hence requires no separate comment.)

In conclusion I will add my article published in the Philadelphia Medical and Surgical Reporter (Vol. 6, page 377) and inasmuch as it is a complete synopsis of the conditions attending death from carotid cutting (one and both including the pneumogastric nerves) I make no apology for appending the same as a matter of reference.

* I have added such portions of his statement in the way of notes as I thought might be interesting to the profession.

# APPENDIX.

## Report of Fifteen Cases of Suicidal Death by Cutting Carotid Arteries.

The question is often asked, Why are the surroundings so diversiffed in suicides by cutting throat? In answering this question it will become necessary to examine the subject a little more in detail. In so doing I shall divide the mode and manner of death into those which involve:

1st. The arteries, (one or both.)

2d. Those which involve the veins and some minor arteries, with or without involving the trachea.

3d. I will analyze the causes of death of such other circumstances as govern the flow of blood.

1st. *In Suicides by Cutting Carotids.*—The appearances are uniform so far as the amount of blood lost, while the direction of the spirting or flow of blood will be modified by the position of the body while the cutting is being done. When any large artery, such as femoral and carotid one or both is cut, death takes place *inevitably* from *hemorrhage.* This is the law of nature which applies invariably to the human subject, the exception is where the artery is secured by ligatures. *Fainting* does not *prevent* the flow of blood from continuing until life is extinct. Instance the invariable uniform amount of blood which flows after decapitation and in slaughtering of animals. I have collected about one hundred cases of suicides and attempted suicides by throat-cutting; in which a very small percentage of them have succeeded in cutting the carotids; many of them presented most frightful cuts and even a succession of cuts, which would seem to involve all the important vessels, but which (when examined by a careful surgeon or physician) were found not to involve the large arteries. Some of these were six and even eight inches in length, and still the wound did not prove fatal. These cuts are mostly in the line of the inferior maxillary, and some of them opening into the pharynx or trachea.

With reference to those which involve the carotids, I shall deem it of sufficient interest to the profession to give a concise and detailed description of such by themselves, inasmuch as there are no articles devoted to this subject. The few cases which might happen to have been subjects of medico-legal inquiry, are not sufficient to elucidate the many points in this inquiry—while the *others* which only involve the *veins* and *trachea,* I will divide into

1st. Such as die from *asphyxia* induced by *insufflation* or running of blood into trachea.

2d. Such as die from *syncope.*

3d. Such as die from the excessive *loss* of *blood.*

4th. Such as die from *introduction* of *air* in the *veins.*

In all these forms of cutting, where veins only are involved, the blood *runs* out as observers say. It is this form of cutting which enables the suicide so to arrange the surroundings that there shall be no soiling of adjacent objects. *Instance,* sitting on the side of the bed and leaning over the wash dish; sitting on a privy seat and catching the blood in a spittoon; kneeling in a large chest or dry goods box, and leaning the head over and allowing the blood to flow into the dirt in the cellar. I find the greater number of suicides make more than one attempt—some make two, three, four, and even five efforts—and still sometimes fail to complete the work. I find one suicide taking two razors and a rope, fearing the first might fail. In fact I find few cases where there was not more than one attempt made at cutting, or in other words few make an incision sufficiently deep at the first attempt to sever the arteries or destroy life. It is *that* class of suicides, where the carotids are cut, to which I wish to call especial attention

In all these cases where the suicide was standing or sitting, and the room a small one, we find that the furniture, room, and clothes of patient, walls, and in some instances, the ceilings were covered with blood, while where the room was large, the jets of blood assumed a parabolon, and blooded the ground or floor for several feet around the spot, leaving a pool of blood where the cutting was done. (See case 4.)

On the contrary, if the cutting is done while on the knees and elbows, the jet strikes the floor near the head, and little blood is found on the person of deceased. (See cases Nos. 6, 9, 15.)

In *every* case of throat-cutting, whether arteries or veins were severed, the instrument used, whether razor or knife, was covered with blood, the same is true of the hand and wrist, while, if they were in the sitting or standing position, their clothes were saturated with blood.

In no case have I found a female cutting more than one carotid, while the large majority of suicides by throat-cutting were males.

In every instance where any observations were made, the wound was found dry a short time after the cutting, and there was found no oozing of fluid-blood from the cut vessels.

The eyes and mouth, so far as note was made of the fact, were open.

The tongue was never bitten or laterally chewed, so far as any note was made of the fact.

Convulsive movements of the limbs, the same as is observed in animals slaughtered, were not uniform, from the fact, *perhaps,* that many of these cases occurred in the standing position, and many of them stood nntil they had bled out.

In *none* of the cases can I *find* that the *soft* parts (including trachea) were *positively* divided at one stroke of a butcher's knife or razor, and in none can I find that the cervical bones had been cut into at all.

In no instance did the suicide lay on the back while the cutting was being done.

Sitting, standing, or kneeling was the universal position according to my observations.

In suicide by cutting of carotids, the external appearance and examinations by post mortem evidence, were entire exsanguination including the lungs; suicidal cuts in the line of the inferior maxillary

and above the os hyoides, are more easily made, and inasmuch as they open into the fauces, are of necessity longer, deeper and more frightful in appearance, but no more destructive to life.

It will be seen that the greater number stand while the cutting is being done. In the fifteen reported cases of carotid cutting, nine were standing, three kneeling, and three sitting on the side of a bed. This is about the rates of positions in the hundred cases, while these three are the only positions in which any attempt has been made at cutting. The percentage of those who cut the carotids to all who attempt self-destruction by this mode, is about one in about twenty to thirty.

*Case No.* 1.—For the following very interesting case I am indebted to Dr. Barent P. Staats, of this city. The subject, a male, aged forty, weighed one hundred and sixty pounds, quite muscular. The room eight by twelve, and ten feet high, contained bed, chairs, etc. While sitting on side of bed, cut his throat with a razor (am not positive with which hand the cutting was done), slid off and fell upon the floor. The cut was in a curvilinear direction, and in a line with inferior maxillary and above the thyroid cartilage, cutting more on the right than on the left side; one carotid cut, pharynx opened, wound about five inches. As he lay on the floor, the razor, which was covered with blood, fell from his hand; the ceiling, and sides of the room, the bed and body clothes, face and hands were covered with blood. The floor contained a large coagulum of blood in which he lay. He could not have lost less than sixteen to twenty-four pounds of blood; bound up the wound some two hours afterwards, and found no blood oozing from the vessels; in fact the cut was dry, and the body was virtually bled out. The face, body, and lips were very pallid, ashy, and quite exsanguined. He had much convulsive action of inferior extremities. I saw him before he was dead.

*Case* 2.—For the following exceedingly interesting case, I am indebted to D. S. Young, M. D., of Cincinnati, Ohio. The subject, a German male, aged forty; weight, one hundred and sixty; muscular; with a butcher's knife, sixteen inches long and much nicked, cut, haggled, and mutilated his throat (while standing) very much, making several distinct efforts, cutting off all the soft parts, including both carotids, both jugulars, trachea, esophagus, etc., down to the bone. He was standing when the cutting was done, head thrown back, and retained the knife within the grasp until he fell, which was forward and partly on his face. The room was a cellar, attached to a pork packing establishment, about ten by twelve, by seven feet high. The blood spirted all over the ceiling and sides of the room. His clothes were saturated with blood; his head, face, hands, and knife were covered with blood. The body seemed entirely exsanguined; face, lips, and body were as white as alabas ter. One hour after, no blood oozing from the cut vessels; the cut vessels seemed dry. From the quantity of clotted blood on the floor, walls, and person, I judged that there was not less than sixteen to twenty pounds of blood lost.

*Case* 3.—The following case is one of special interest, from the amount of blood lost and the distance that he walked after the cutting was done. It occurred under the observation of Dr. Willard, of Berne, Albany county, New York. The subject, a male, aged forty, weight one hundred and fifty pounds, full habits. He went to a garret with a rope and razor; with the razor he cut his throat, while standing about four feet from garret stairs. From this point he descended two pairs of stairs, walked the whole length of lower hall (about thirty feet), out back door,

walked outside 3 or 4 steps, leaned against side of house for a moment, and finally sagged down, like one in a faint. Here was found a large pool of blood; and when taken up he had bled out. After some little time, body was carried into the hall, when it was not even emitting blood enough to stain the carpets. The first dash of blood struck the side of the halls, stairs, and stairway; the stairs and sides, and the whole track from the garret to where the body lay was spattered and thoroughly bedaubed with blood; in fact, the halls and stairs were drenched with blood; the blood running like a penstock, by jerks. His wife stood in front door and saw him coming down the second flight of stairs. Her screams brought others to her assistance. Front of body, hands, and clothes were covered with blood, also the razor, (which was retained in the grasp of right hand until he fell at the back door,) hands and face were covered with blood.

The cut was just below the thyroid cartilage, and severing a piece of the same, was large, five to six inches, commencing on left side of neck, back of sterno-cleido mastoid muscle, cutting through all the soft tissues of that side, including trachea; œsophagus cut partly through; the carotids on right side not cut, on left side entirely cut off; the vertebræ not cut. I saw the body soon after the accident, and sewed up the wound some four hours after. There was no blood oozing from the wounded vessels; it hardly soiled the fingers, but left a fleshy smell on them. The amount of blood of course is speculative; the quantity was very large, more than I supposed was contained in any person.

*Case* 4.—For a very full and concise history of the following very interesting case, I am indebted to Doctor Walter Boothe, of Booneville, Oneida county, New York, of which the following is an abstract:

D. S., aged sixty, weight one hundred and sixty, of nervo-sanguine temperament; for some time he had been somewhat despondent and gloomy. He was standing near the railroad track, and just as the train passed out of the depot, he drew a razor from his pocket, threw back his head, and made an incision, severing all the superficial structures and jugular veins. The blood flowed moderately; seeing persons approaching, he made a second desperate cut, and so exactly* in the course of the first one, that no appearance of two incisions was visible on examination. The incision commenced on the left side, two inches below the lobe of the left ear, extending across the neck, in a curvilinear direction, above the thyroid cartilage, opening into the pharynx, cutting all the soft tissues in front of the vertebræ, but not cutting into its covering, and terminating one and half inches below the lobe of the right ear. The right carotid was entirely severed; the left one, nearly. The blood spirted laterally and in front four to five feet, in a parabolic stream, covering the clothes in front of his person very much with blood, as was also his right hand and the razor covered with blood. Not more than ten minutes supervened from the first incision to the time of death, which took place with only slight tremors. The eyes and mouth were open; tongue not bitten. Since the receipt of the doctor's communication, I received information from a reliable source that the loss of blood was very large, sixteen to twenty pounds, and that the blood flew in jets for at least eight feet laterally and in front, and at an angle of forty-five degrees from the body, covering the board walk and ground with blood; also a large pool of blood where he stood. Not

* In a recent conversation with Dr. Boothe he says that there was *scarcely* an appearance of two incisions.

less than sixteen to twenty pounds of blood was lost, judging from the appearances and clots on the ground.

*Case* 5.—For the following case, I am indebted to Dr. P. P. Staats, of this city. The subject, a male, aged forty, rather corpulent, weight one hundred and fifty, cut his throat (while standing) with a razor; he soon fell on his back. The cutting was done with right hand and above the thyroid cartilage, cutting through carotid, trachea, and all the soft structures, but not involving the vertebræ.

The blood spirted six to eight feet from where he stood, leaving a large pool of blood on the floor. The amount of blood, of course, was very large; I think twelve to sixteen pounds, from the fact that the body was left exsanguined, and also the condition of the floor and his clothes, which were saturated with blood.

*Case* 6.—Dr. C. P. Staats.—T. O., aged 25, weight 140 lbs., muscular.

*Position.*—Cutting done while kneeling, and his face imbedded, and fell down on face; this was in a straw loft, and straw about five feet in thickness; cutting done with right hand, which, with the right arm were covered with blood.

*Wound.*—Commenced at angle of left jaw, and made three distinct cuts: first, one cut was in the carotidian direction of chin at five inches, mostly on left side; second, below, mostly on left side, and four inches just below the first, and mostly a skin cut; third cut commencing at the angle of the first cut, and extending obliquely downward across the thyroid cartilage, (but not into it,) severing the carotid on the left side.

*Blood.*—Chin, neck, and breast were covered with blood, right hand, (inside and out,) wrist and sleeve, (five inches from hand,) were covered with clotted blood; razor left in wound, and dropped out when he was lifted up. The blood stained this five feet of straw, also two floors and two ceilings and floors; and on this lower floor, at least one pint of blood was found I judge there to have been at least three gallons of biood lost, from the condition of the stairs, floor, ceilings, &c.

*Face* was bluish white, lips like marble, tongue contracted and shrivelled, and not bruised or bitten.

*Eyes and mouth open.*—Sewed wound about an hour after cut; it was covered with dry clotted blood, and no oozing from divided vessels.

The straw which was close about his neck prevented the blood from spirting. Breast and clothes on front of body were saturated with blood to the inferior portion of sternum, and his shirt rolled down some distance below his neck.

Face looked ghastly, and not like one asleep. The razor was nicked.

*Case* 7.—For the following case I am indebted to Dr. Burton, of Troy, N. Y. The subject a female, aged 30, weight 120. She was standing in front of a mantle looking-glass, when she cut her throat with a razor, and soon fell on her left side.

The cut was made by the right hand, and cut commenced on the left side, cutting the sterno-cleido mastoid muscle together with nearly all the soft parts of the left side of the neck, also the carotid, and through the trachea below thyroid cartilage; the blood spirted out in jets over mantle, glass, etc., covering the same; all the clothes on the left side of the body were saturated with blood, and bloodying neck, breast, hand and razor, most thoroughly, and leaving a large mass of blood on the floor; at least 12 lbs. of blood was lost; mouth and eyes open, tongue not bitten; when the wound was sewed up, the edges were dry, and of course no oozing of blood from the vessels cut; an examination, post mortem, revealed entire emptiness of the circulating system.

*Case* 8. For the following interesting case, I am indebted to Dr. Thorn, of the Marshall Infirmary, Troy, N. Y. The subject, a male, æt. 50, full habit of body. The room was about 12 by 20 feet, and contained a bed, chairs, and looking glass, near which he was standing when the cutting was done; from this position he staggered about nine feet, and fell on the bed. The cut was mostly on the left side, commencing just behind the angle of the jaw, cutting on a line with it to and through trachea, and severing the carotid. The instrument, a razor, was held in the right hand, and was not retained in the grasp. The blood jetted several feet, and struck the wall, which was spattered with blood, while the bed where the body lay, and body clothes were saturated with blood—the right hand, arm, face, and razor, were covered with blood; the quantity of blood on the floor, walls, bed, furniture, and body clothes, of course, was speculative, but was very large, as the body was exsanguined, and the edges of the wound dry, no oozing of blood from the cut vessels.

*Case* 9.—For the following exceedingly interesting case, I am indebted to Dr. Benjamin E. Bushnell, of Little Falls, Herkimer County, N. Y. Suicide, a male, æt. 55, weight 150, lean habit.

*Position.*—When first seen, he was on his knees and resting on his left elbow, head near the floor; he had then only lost about one-half pint of blood; when I arrived, he lay on his left side, with the left side of his head in a pool of blood, and gasped once or twice. I found that he had made two cuts, one across the thyroid cartilage, very slight; the second commenced under the left ear, and extended obliquely downwards and forwards across the thyroid cartilage, cutting jugular vein, carotid artery, but not the trachea. The right hand was covered with blood, little on the clothing, as from position of the body the blood poured directly on the floor; two razors were found near by, one directly in front, and a little to the right, covered with blood, the other not bloody. With regard to the quantity of blood lost, it is difficult to say how much, as it was a loose floor, and the blood ran freely through it, but from appearances, should say there was a large amount lost. He evidently died of hemorrhage. Upon examination of the abdominal cavity, the blood vessels were empty. The examination of the wound was made but a few minutes after death, and there was very little oozing from its vessels at the time.

S. N. Sherman, M. D., of Ogdensburgh, N. Y., now member of Congress and Surgeon of the Thirty-fourth Regiment of New York State Volunteers, sends me report of the following cases, which I have read with interest.

*Case* 1.—Male, age forty-five, weight one hundred and seventy pounds; while standing with head turned to the right, made two distinct efforts to cut his throat with a butcher's knife.

First cut extending through the skin, cellular tissue from the angle of the left inferior maxillary downwards across the neck, not so far on right side as left.

Second cut was on the right side, between thyro-cricoid cartilage, and made by a back hand movement, severing the trachea, both carotids, and most of the soft parts of the right lateral position of the neck, and extending about six inches in length, and nearly square across the neck. The blood spirted all over the ceiling, (9 feet high,) and about eight feet in every direction, covering his hands, face, etc., completely, and saturating the clothing on the body, losing not less than sixteen to twenty-

four lbs. of blood. The knife, (sixteen inches in length,) lay on the floor, and covered with blood. The face, lips, etc., (after being washed,) were ashy pale. He remained standing for some seconds after the cutting, then fell forward on his face, when active, convulsive efforts supervened, lasting some seconds. The tongue was not bitten; sewed up wound within an hour, and there was not enough moisture to soil a sponge, no blood oozing from divided vessels.

*Case* 2.—A female, aged thirty-five, weight one hundred and ten pounds; was sitting on side of bed; cut throat, commencing posterior to the mastoid muscles of left side, just below the lower lobe of ear, extending in a curvilinear direction, on a line with the lower jaw, terminating one and a half inches lower on the right than on the left side, severing the left carotid, and opening into the fauces above the thyroid cartilage, but not the cervical bones. She slipped off the edge of the bed to the floor, and lay partly on her face, which rested across the right arm. The blood spirted about ten feet in every direction, saturating her clothes, and the carpet on the floor was saturated with blood; a large pool of clotted blood, in which she lay immersed, not less than sixteen to twenty-four lbs.; her hands, face, and razor, were covered with blood. Razor had evidently slipped out of the right hand as she lay on the floor, and the eyes and mouth were open, and tongue not bitten. The clothes of her person were somewhat disarranged, as if convulsions had supervened. No blood oozing from divided vessels, nor was there any blood moisture at the wound one hour after the cut was sewed up.

*Case* 3.—Male, aged thirty-six, weight one hundred and eighty; while standing in front of looking-glass, (in a room about ten by ten, and eight feet ceiling,) with his head thrown backwards, cut his throat with a razor. Cut commenced on left side, extending across the neck in a line with the chin, cutting both carotids into fauces, etc. The blood spirted over the glass, ceiling, sides of the room, table, chair, face, head and hands, (right and left.) He ran round the room, leaving prints of bloody fingers on the sides of room, and finally fell on his face, where there was a pool of blood. His clothes, also, were saturated with blood; the entire loss of blood could not have been less than sixteen to twenty-four lbs. The razor, handle, and blade, were covered with blood, and lay on the table under the looking-glass; mouth and eyes open, and no oozing of blood from cut surface, which was dry. He had convulsive movements.

*Case* 4 *and* 5 were males, laboring under delirium tremens. The cuts were large, severing the carotids higher on the left than on the right side. He did not see them until they were in the dissecting room, and hence could only say that their bodies were entirely exsanguined, and not blood enough oozing from the wounds to soil a pocket handkerchief; lips were completely blanched, while no blood flowed on dissection; tongue not bitten.

*Case* 13.—Dr. J. P. Boyd, of Albany, N. Y., communicates the following interesting case:

Male, aged forty, weight one hundred and forty pounds, spare. Cut throat, (supposed sitting on edge of bed,) severing left carotid, windpipe and nearly all soft parts on left side of neck; when found, was on his back in bed; clothes much disturbed; wound gaping; mouth open; room about seven by eight feet, about eighteen feet high, and contained bed, chairs, etc. Sides of room seven to eight feet from the floor were covered with blood, spirted from the vessel; bed, bedding, body, and

clothing were saturaed with blood; head, face, hands, etc., were covered with blood; did not see instrument; no blood oozing from wound or cut vessels; they were dry. It seemed to have bled out. There was evidently a large flow of blood, and death was evidently attributable to that cause.

*Case* 14.—I am indebted to Dr. Duane, of Schenectady, for the following very interesting suicide, the extent of the cut makes it especially so. The subject, a male, age forty five, weight one hundred and eighty. He was standing, when the cutting was done, and soon fell on a straw bed, (which was on the floor,) with the head resting on a feather bed, rolled up, and laid on a straw tick. The cut below the thyroid cartilage was long, severing both carotids, trachea, etc., extending farther to the left, than the right side, cutting only to the mastoid muscles of right side, while on the left it was severed, (no bones cut). He had two razors, one in his pocket, and the other retained in the grasp of the right hand, and covered with blood, as also the right hand and wrist.

It was an ordinary sized bedroom; bed on the floor. The blood spirted all over the walls, floor, bed, body, clothing, etc. There could not have been less than eighteen to twenty-four pounds of blood lost, judging from the condition of the apartments.

The mouth was open; the chin dropped.

*Case* 15.—Dr. Elwood, of Schenectady, sends me the following case: Subject, male, age about thirty-six, weight about one hundred and fifty; cut his throat while on his knees and elbow, and fell forward on his face. Cutting done with right hand, and was mostly on the left side; commenced two and a half inches back of carotid, severing it completely; cut above the thyroid cartilage. The bedroom about fourteen by fourteen. The floor received most of the blood, owing to the position of the body; still the body, also, the right hand, razor, and face, (ghastly and bloody,) were covered with blood. The amount of blood lost was at least sixteen lbs., (two galls.,) judging from the condition of the room. Eyes and mouth open.