FACTS AND OBSERVATIONS

CONNECTED WITH THE MANAGEMENT OF THE

MARINE AND EMIGRANT HOSPITAL,

QUEBEC,

Including a Report of the Trial and Acquittal

OF

THOMAS BURKE,

FOR THE

MANSLAUGHTER OF WILLIAM LAWSON,

Who died from neglect and improper Treatment in the Hospital.

BY W. MARSDEN, M. D.,

FELLOW OF THE MEDICO-BOTANICAL SOCIETY OF LONDON; GOVERNOR OF THE COLLEGE OF PHYSICIANS AND SURGEONS OF CANADA EAST; FELLOW OF THE MONTREAL PATHOLOGICAL SOCIETY, &c., &c., &c.

"Magna est veritas et prevalebit."

QUEBEC:

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FACTS AND OBSERVATIONS

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MARINE AND EMIGRANT HOSPITAL,

QUEBEC.

To the Honorable the President and Members of the Executive Council of Canada:

HONORABLE GENTLEMEN,—The important and honorable position to which the voice of your country has raised you, has involved you in responsibilities, and imposed upon you duties of a high and sacred character. Although under constitutional government the rulers are elected *by a party;* the liberal action of modern legislation repudiates the practice of governing *for a party.* Convinced that each and every member of your honorable body is impressed with this conviction, and fully alive to the welfare, wishes and wants of the people in this Province, I respectfully submit the following pages for your attentive perusal and consideration, in sure and certain hope of your independent, judicious, prompt and benevolent action in the premises.

I have the honor to be,
Honorable Gentlemen,
Your obedient servant,

W. MARSDEN, M. D.

A pamphlet having been printed by order of the Legislative Assembly, entitled, "Return to an Address of the Legislative Assembly to "His Excellency the Governor General, dated 3rd July, 1851, for "copies of all correspondence between the Government, the Board of "Trade, Dr. James Douglas, the Commissioners, House Surgeon and "Visiting Physicians of the Marine and Emigrant Hospital, and other "parties, touching the management of the said establishment," in which I have been libelled, and my name most discreditably, maliciously, injuriously and falsely associated with certain persons, and parties, with whom I have not nor ever had any connexion whatever, I, as well in my own vindication, (since the Act of the Legislature deprives me of an action at law against my traducers,) as in justice to the Execu-

tive Government over which you preside, present you with the following statements of facts. Any one reading this "Return" and having no other evidence of the management of the Marine and Emigrant Hospital, would naturally suppose that I had been a most officious and indiscreet meddler in the affairs of the Institution, as no reason whatever appears on the face of the Return, for my action in the matter.

Doctor Painchaud, (of whom, being the Doyen of the medical profession, I would, for its honor and credit, that I could in truth speak even negatively respectfully,) commences his attack upon me, at page 86, as the "wire puller" of the complainants of Hospital mismanagement and as "leagued with Cutter, the Steward, and with hirelings of the Hospital, turned off, like himself, for their bad conduct, and puts into their mouths oaths to establish the most revolting statements against honorable men of stainless character," &c. With reference to the last assertion of Dr. P., I will only refer to the case of an old lady who sought for her daughter, in the oven, and there found her; and, on being asked how she thought of looking in such a place as the oven for her daughter, replied that she had once been there herself. As for Mr. Cutter, so far from being leagued with him, I knew nothing whatever about his difficulties, or position, until after he had been suspended from his office. "The Return" throughout, from the first mention of my name to the last, charges me with most unworthy motives for my course, in reference to the Institution, and as being leagued with others against it; but I now, once and for all, disclaim any connexion or collusion with any person or party whatsoever.

At the time I complained to the Commissioners of the death of the late Charlotte Crosby, (who had been a servant with my brother-in-law, F. Andrews, Esq., Advocate, up to the time of her admission into the Hospital, and) who died from improper medical treatment, and was buried in a Roman Catholic Cemetery, although a Presbyterian, I was not aware of the complaints of the Board of Trade, Dr. James Douglas, or any other person whatsoever. Between Dr. James Douglas and myself, not the slightest sympathy has existed for many years past; and the first intimation I had of the action of the Board of Trade was about the 20th February, 1851, although a different opinion might be formed on reading Mr. Secretary Leslie's letter, at page 142, where he says: "His Excellency therefore regrets that whilst you have not hesitated to put forth two specific charges, one of which appears to be based upon Dr. Marsden's letter, which is posterior in date to your first letter, preferring charges in general terms, the Board of Trade should," &c. If, therefore, my letter to the Board of Trade, in reply to an application of that body, for copies of affidavits in my possession, contained anything that had reference to the charges of the Board of Trade, His Excellency was in error in supposing that their charges were based upon information obtained at a posterior date; and the information obtained from me must, therefore be received, as confirmatory of the charges of the Board of Trade. I had not, however, I repeat, had any correspondence or communica-

tion with the Board of Trade, previous to the date of my letter to that body, nor have I since.

At page 96, in reply to a letter of Dr. J. A. Wolff's, Dr. Painchaud says, "You enquire of me in your note of to-day, if there is an order prohibiting Dr. W. Marsden's admission into the wards of the Marine Hospital, which he stated was a lie? This question has already been put to me and I answered then, as I do now," (21st Feb., 1851) "in the affirmative. The House Surgeon received an order from two of the visiting Physicians, Dr. James Douglas and myself, to deny Dr. Marsden admission to the wards during our absence." On this subject I addressed Dr. J. Douglas in writing, who replied in the same manner; "that, he had never given any such order in reference to Dr. Marsden," and that the Commissioners alone had power to pass Laws &c., but, that there was no Law affecting me personally, excepting, what applied to every other member of the profession. A similar statement was also made to me by Dr. Morrin, the Chairman of the Commissioners. Dr. Painchaud had, however, uttered his fabrication so often, that he at last seemed to believe it himself; but finding that no such Law existed, Dr. Painchaud succeeded in obtaining the passing of a By-law by the four Commissioners who sign the Report having reference to me personally!

No gentleman would think of intruding himself into the wards of an Hospital excepting at the visit hour, and the annexed affidavit is a denial to the supposition that I had ever done so.

PROVINCE OF CANADA, }
DISTRICT OF QUEBEC. }

William Marsden, Doctor in Medicine, of the City of Quebec, being duly sworn upon the Holy Evangelists of Almighty God, doth depose and say that he never, at any time, visited the Wards of the Marine and Emigrant Hospital of this City, excepting in company with, or by permission of one or more of the visiting Physicians, or the House Surgeon, notwithstanding the assertion of Dr. Joseph Painchaud, to the contrary.

Further deponent saith not and has signed,

WM. MARSDEN, M. D.

Sworn before me at Quebec, this }
7th day of July, 1851. }
G. HENDERSON, J. P. }

Dr. Painchaud's Law, however, prohibits my visiting the Hospital at all!—perhaps he was right in obtaining it, as his practice will not always bear scrutiny. Why did not Dr. Painchaud attack my professional as well as my moral character? The one in the Physician is worthless without the other. He knew that *with truth* he could not impeach either. My professional reputation he knew to be beyond either his praise or his blame, and that he could not obtain the testimony of his confreres to support him, who alone are competent judges of such matters. But by what standard does he try my moral character? In the language of the satyrist, he

"calls up bawds and bullies to his aid;"

Therefore we find at page 154, the affidavit of a man who is living in a state of open adultery, and against whose father I have an action

pending in superior term, for upwards of two years past; the decision of which, may deprive him of a large portion of his patrimony; and, on the *ipsa dixit* of a common prostitute with whom my only intercourse was professional, having attended her for an intractable chronic disease, which had baffled the science and skill of Dr. Painchaud and other medical men. Had Dr. Painchaud taken a tithe of the pains, to investigate *the facts* contained in my letter, of the 1st of March, 1851, to the Commissioners, that he did to deceive them, and to vilify my character, his position and connexion with the Marine Hospital would have been more enviable. Evidence just as veracious as this affidavit, could be obtained from similar sources, by resorting to the same means, respecting any individual in the community, from His Excellency the Governor General downwards; and monstrous and improbable as it would appear to many persons, hundreds and thousands would believe it, especially if printed by the authority of Parliament. At page 87, Dr. Painchaud, very benevolently, in his letter to Mr. Secretary Leslie, after having uttered every falsehood that could injure me in the eyes of His Excellency the Governor General, (in which I have too good reason to know that he succeeded,) says, "If I were allowed to consult the Police Register I might add a great deal more; but that is not permitted without an order of the Government." This dastardly insinuation is not worse, but as bad as every other part of his tissue of falsehoods, real and constructive, regarding me. Lest it should be imagined by any one, that I had been in the habit of figuring in the Police Registers, I have to request, that the Government will without delay issue the necessary order to permit Dr. Painchaud to refer to the Police Registers; and, I hereby authorize him to publish every thing he finds in them touching me, in any and every Newspaper in the Country.

The "Return," purports to be, a return of "*all* Correspondence between the Government, and other parties," touching the management of the Marine and Emigrant Hospital, but they are not *all*, nor are they *correct* copies of correspondence as it went into the hands of the Commissioners, before it reached the Government. I will, however, confine my remarks to what concerns myself.

At page 234 Mr. Cleophas Beaubien, following the example of Dr. Painchaud, makes me the associate of Mr. Cutter and the malicious mover of all that affects him, after using my name in the same unscrupulous manner that all Dr. Painchaud's polluted protégées have done, he says; "I may, I hope, be permitted to explain the motives of this dislike—this hatred of Dr. Marsden towards me. I pursued my first studies under him at Nicolet, but the drunken, debauched and immoral habits to which he had addicted himself, compelled my friends to remove me from him, &c." Mr. Beaubien must have been under the same impression that some other parties who have given evidence were, viz; that his letter would never reach my eye otherwise, he would not have been foolish enough to have written thus, although he might have been sufficiently insincere Mr. C. Beaubien *did not*

commence his studies under me, but under his cousin, Dr. J. O. Beaubien of St. Thomas, *a former pupil* of mine, and, at the repeated and urgent solicitation of himself, and his parents, I consented to take him, with an apprentice fee ; although, I intended as I informed them, to return to Quebec to reside, on the first favorable opportunity. His indenture was accordingly transferred to me and would have established the above facts,and contains a provision, that in the event of my removal from Nicolet, the indenture should be transferred to some one else. Mr. Beaubien continued to be my pupil *up to the hour of my leaving Nicolet*, when *I left him ; and not he me.* I now demand of Dr. C. Beaubien who is practising, as Physician and Surgeon (having obtained his examination on my certificate) to say on his word of honour as a gentleman, (if he knows what that means,) whether, during the whole time he was with me, he either saw or heard of any *drunkenness, debauchery or immorality* in me. Two cousins of Dr. C. Beaubien's had studied under me before him, one of whom, since dead at Bytown he succeeded, and the gentleman before named with whom he commenced his studies was the other, so that I was no stranger to Dr. C. Beaubien.

It must be borne in mind, that the whole of the mock trial of the four Commissioners was "*exparte ;*" and will it be believed that the organ of such a trial was an Advocate ! a practising Attorney ! From the date of my first letter to the Commissioners, to this hour, I have never been called before them, nor asked for proof of the statements that my letters contained ; nor have they seen fit, to publish my letter to them, although they have extracted the copies of affidavits which accompanied it, andacted on them, placing me in the unenviable position, as I have before stated of apparently being a volunteer grievance, monger. The so called report commences thus :—"Report of the Commissioners of the Marine and Emigrant Hospital, on the investigation ordered by them on the conduct of C. Eusèbe Lemieux, House Surgeon; Cléophas Beaubien, the Apothecary ; and Jane Hamilton, a nurse in the said Hospital."

The Commissioners of the Marine and Emigrant Hospital beg most respectfully to submit to His Excellency the Governor General, and report that, on the beginning of March, they received from Dr. W. Marsden, of this city, a letter accompanied by certain documents, purporting to be affidavits obtained by him from several individuals, and containing *serious accusations* against the House Surgeon, the Apothecary, and one of the nurses ; but * *the uncivil and threatening tone of his letter* prevented the Commissioners from taking any steps upon it. *These charges, however, were of such a serious character,* that the Commissioners themselves earnestly desired an investigation, &c."

So, it appears, that the mock trial of the parties before named, was gone through on my account ; although, "the uncivil and threatening tone of his letter prevented the Commissioners from taking any steps upon it." No wonder that the unfortunate victims who have been

* The italics are mine.—W. M.

dragged before the public in the Commissioners report founded on my affidavits, should be revengeful and bitter towards me, especially if they are not guilty. So far from "not taking steps upon it, however," they have taken the steps that have resulted in their *fabulous* report. Had the Commissioners published my communications, (which for the sake of showing the uncivil and threatening tone they ought to have done,) it would have *forced* upon them the investigation of charges of a much more serious nature, than those they have *pretended* to investigate. Will the four Commissioners inform the public, why their investigation was so *cautiously one-sided;* and why *the whole* of the evidence was not taken down, and sent to the Governor? Why, in fact, the evidence *was not taken down as it was given?* Well might Dr. Lemieux "*desire an investigation,*" knowing his peers. Well might he desire it, hoping that the mock investigation of his four friends would prevent any further enquiry; but he, ostrich like, and in imitation of his *honorable* patron and prototype, Dr. Painchaud, imagines that if he can get his head into a bush he cannot be seen. The immaculate and indignant Dr. Lemieux, brings up the rear-guard of the libelers of whom his patron formed the van; and each has shown himself worthy of his commander. At page 250, in his defensive, defamatory, and declamatory epistle to the Commissioners, which he modestly *desires* "may be submitted to His Excellency," he delivers himself of the following poetical and professional bathos:—

"Mr. Beaubien and I are, therefore, the victims of a plot hatched in the impure and fermenting filth of depraved hearts, whose poisonous fumes make virtuous modesty sicken and wither; and he who undertook to manipulate the mixture, all in the cause of religion and morality, is Doctor William Marsden.

"It is fit that I apologise to you, Gentlemen, if after tearing the veil from the basest of conspirators, I have given too free a course to my indignation, and by the use of terms perhaps too energetic, have put slander out of countenance—slander be it remembered, which has pursued me open mouthed for six months with a fury of which I did not think men capable;" Very indignant and heroic truly! When, where and how did Dr. W. Marsden slander him? It would have naturally been supposed, however, that even the sham investigation of Dr. Lemieux's patrons, in the first quarter of the year 1851, would not have been entirely forgotten before the like period of the following year; but I fear that Dr. Lemieux's shadow follows him as he descends towards the setting sun. Was it Dr. W. Marsden that caused Mr. Whelan, the late Steward, (and Mr. Cutter's predecessor and successor) to resign his situation *directly* into the hands of the Executive and (very properly taking the past as an index to the future,) to give the four Commissioners the go-bye so soon after his appointment to the office? Was it Dr. W. Marsden who caused Mr. Whelan to say, "that he would rather return into honest poverty and indigence, than live in luxury or affluence in an establishment that was no better than a common brothel?" The slander then, if slander it

be, that excited Dr. Lemieux's honest indignation, did not terminate after "six months fury," but his shadow still haunts him, for "conscience makes cowards of us all."

Will the four Commissioners call on Mr. Whelan to confirm what he stated to His Excellency; or will they now class him as one of the "unworthy and discharged servants?" It is, however, due to Mr. Whelan (who will now be denounced as a fresh conspirator,) to give the words of the Commissioners themselves, in regard to him, when recommending him for the office of Steward, about to become vacant by their act. At page 16, they (the four Commissioners) say," That should it please Your Excellency to dismiss Mr. and Mrs. Cutter, and to appoint other persons in their place, the Commissioners should respectfully submit that, in their opinion, Mr. and Mrs. Patrick Whelan, who filled during many years (16!) before the nomination of Mr. and Mrs. Cutter, the situations of Steward and Matron, are the most proper persons to be appointed, and that while * *their uprightness, their acknowledged morality of conduct, their long and faithful services, the poverty which they are now suffering*, claim for them a re-establishment in those situations." After this, will the four Commissioners call on Mr. Whelan for proofs; and will they think him worthy of credit?

The abuses that exist in the Marine and Emigrant Hospital are not of new or recent date; but are the result and accumulation of a long series of mismanagement; and I am conscientiously of opinion, that the most serious damage has been done to this institution by the appointment of men of the high, moral, and professional character of the two medical members of the Commission, who have wisely stood aloof from the absurd doings of the four lay Commissioners. It seems paradoxical, that men should be bad from their very goodness; but so it is. The deservedly high standing of these two gentlemen, were a public guarantee that the duties devolving upon them would be well and faithfully discharged; and the public, as well as the Executive, is naturally unwilling to entertain complaints against an institution over which such men are supposed to preside; but the truth must be told. The Chairman was placed on the late Commissions *nolens, volens, he* having resigned his former Commission avowedly from inability to discharge the duties, in consequence of his other more important professional occupations. The other gentleman from long continued ill health, was prevented from taking any part in the proceedings of the Commission. The long continued indisposition of this gentleman, whose professional attainments, and moral standing are both of the highest order, has been a public as well as a private loss. Had either of these gentlemen been able to attend to their duties, as Commissioners, the medical irregularities (to use no harsher term) that have disgraced this Institution, and out of which all the other evils have arisen, never could have taken place. Medical men alone are fit to form opinions on medical subjects; and, where differences exist

* My italics,—W. M.

between the medical officers of the Institution, and on medical matters, laymen are unable to decide between them.

I will now give the documents connected with my complaints of the mismanagement of the Hospital *seriatim*.

On the 14th of February, 1852, F. Andrews, Esq., called on me to ask my advice and assistance in reference to one Charlotte Crosby, a servant of his who had died suddenly in the Marine and Emigrant Hospital. The accompanying letter from Mr. A., written after our having striven in vain to get *even a sight* of the body, will explain itself.

QUEBEC, *17th February*, 1851.

DEAR DOCTOR,—I have before me your note desiring me to give a written statement of the particulars and the results of my application on Thursday last, to the authorities of the Marine and Emigrant Hospital, for permission to see the body of the late Charlotte Crosby, my former servant, then lying dead, and I proceed to comply with your request.

On Thursday, the 14th instant, at about 10 A. M., on enquiring of a man whom I met in one of the passages of the Hospital, if I could be informed as to the truth of certain information I had received of the death of a patient in the Hospital. I was shown by him into, as he said, the Doctor's Room, in which was a gentleman whom I did not know, but thought to be Dr. Landry, and whom I addressed as Dr. Landry, but have since ascertained to be Dr. Lemieux. Addressing that gentleman, I asked him if he could inform me, whether a young woman named Charlotte Crosby, had lately died in the Hospital, and was answered, "yes, she died the day before yesterday." After some conversation as to the cause of her death and the nature of her disease, I enquired whether she was yet buried, and was informed she was not. I then requested permission to see her, but was immediately told I could not be permitted, because a post mortem was about to take place. I urged, over and over again, my earnest desire to see her, in order to satisfy myself that we both really alluded to the same person. I stated my wish to see her, that I might satisfy both myself and Mrs. Andrews as to the truth of her reported death; that I expected Mrs. Andrews in Town that morning, and supposed she would call at the Hospital, and that I was about proceeding home to prevent her sustaining the shock of coming to the Hospital; and finding the young woman dead, whom she informed me, upon the occasion of her last visit to the Hospital, was quite recovered after her confinement. In answer to which the Doctor stated that the young woman was apparently quite recovered, that her death was very sudden, after only twelve hours illness, and said it would be well to prevent Mrs. Andrews coming. I also informed Dr. Lemieux that the young woman had been our servant for some months, that she had no friends in the place, and that Mrs. Andrews felt for her, and took much interest in her, and had several times visited her in the Hospital. Being at this time very anxious to be certified of the truth of the matter, I pressed upon Dr. Lemieux, the reasonableness of my request, and asked if the body had been operated upon, and was answered, "No, but that every thing was ready." I stated I had no desire to disarrange it or touch it, and being still refused permission to see it, while endeavoring to discover the reason, the idea suggested itself it might be because the body was exposed, upon which I asked if such was the case, and being answered it was, I immediately desisted from any further request to see it. Upon leaving the Hospital, I met at the door, Dr. Painchaud entering, of whom I made enquiries concerning the disease and death of the young woman, but did not repeat to him any wish to see her, for the same reason that prevented my further urging it to Dr. Lemieux. Dr. Painchaud then told me she had died after twelve hours illness.

These are the particulars of what took place in the Hospital. I wish, however, to add, that at an interview I have since had with Dr. Lemieux, at my own office, he seemed to be under the impression that he had, and in fact he then asked me if he had not informed me at the Hospital that the reason I was not allowed to see the body, was that the head and stomach had been operated upon, and if he had

not then informed me, I might see the body if I would return at 3 o'clock in the afternoon. I then told the Doctor what I now reiterate most distinctly, that no such information was given, nor did any conversation of the kind take place. In fact had any such thing occurred, I should have been quite satisfied, instead of leaving the Hospital as I did with feelings quite the reverse.

I am, dear Doctor,
Yours truly,
FREDERICK ANDREWS.

WILLIAM MARSDEN, ESQ., M.D.

P.S.—I find I have omitted to notice the question you put me as to the Religious profession of Charlotte Crosby. She was a Presbyterian, and the members of my family inform me she had a strong aversion to the doctrines of the Romish Church

The following was at the same time addressed by Mr. Andrews to the Commissioners, from whom he received the answer accompanying :—

QUEBEC, 17*th Feby.*, 1851.

GENTLEMEN,—As the person in whose service the late Charlotte Crosby was at the time of her entering the Marine Hospital, and by whose instrumentality her admittance to the Hospital was procured, and as the only friend she had in this city, I beg leave to request of you her body for interment, according to the rites of her Church, finding after enquiry at the different Protestant Cemeteries that she has not been interred in any of them.

I am driven to adopt this course, in consequence of my having been denied by the House Surgeon of the Hospital, even the permission to see her body when she lay dead in the Hospital.

I have, Gentlemen, the honor to be,
Your obedient servant,
F. ANDREWS.

TO THE COMMISSIONERS OF THE
MARINE AND EMIGRANT HOSPITAL.

HOPITAL DE LA MARINE ET DES EMIGRES.
QUEBEC, 19 *Février*, 1852.

MONSIEUR,—J'ai l'honneur d'accuser réception de votre lettre en date du 17 du courant, et de vous informer en réponse que votre demande du corps de Charlotte Crosby, pour l'enterrer, est parvenue trop tard aux Commissaires pour qu'ils pussent y accéder, cette femme décédée le onze ayant été enterrée le quatorze du courant.

J'ai l'honneur d'être,
Monsieur,
Votre obéissant serviteur,
N. CASAULT,
S. T. C. H. M. et E. M.

FREDERICK ANDREWS, Ecuier
&c., &c., &c.,
Québec.

Seeing that there was no possibility of obtaining sight of the body, or of ascertaining the cause of her sudden death, excepting by means of an inquest, Mr. Andrews waited on the Coroner, and I proceeded to the Burial Ground belonging to the Hospital. The following is an affidavit which I made in rebutal of an affidavit at page 96, of the Return, purporting to be the affidavit of Thomas Bockley, and was obtained by

Dr. Painchaud. Its French origin is evident both in its style and in the spelling of the name, Thomas Eockley for Buckley. In addition to the following affidavit, I have to state, that the Chairman of the Commissioners informed me, that Buckley had told him the circumstances of my visit to the Burial Ground at the time, and that his statement and mine were alike.

PROVINCE OF CANADA,
DISTRICT OF QUEBEC.

William Marsden, Doctor in Medicine, of the City of Quebec, being duly sworn upon the Holy Evangelists of Almighty God, doth depose and say; That on or about the fifteenth of February last, this Deponent went to the burial ground, known as the Marine Hospital Burial Ground, near "*Gros Pin*," and speaking to a man whom he believes to be Thomas Buckely, the Sexton, asked him whether the body of one Charlotte Crosby had been buried, and received for answer that "he did not know," as *he was not furnished with the names of the bodies he buried*, but merely the sex and religion; but that the last body brought to the ground was a female, and a Roman Catholic, and was not yet buried, but was lying in the dead house. Deponent then asked him (Buckley) if he would allow him to see the body, in order to identify it, as the friends of the deceased were trying to get a Coroner's inquest upon it, whereupon he replied, that he supposed Deponent might see it, and he hoped he would get no blame for showing it, which Deponent assured him he would not.

On seeing the body, Deponent at once identified it as the body of Charlotte Crosby, and advised him (Buckley) not to bury it until after Monday, as by that time there would probably be an inquest, in which case the body would have to be disinterred.

Further, Deponent saith that he never said to Buckley or any other person, that he had *an order from the Coroner*, but that Buckley would get one if an inquest were held: nor does Deponent believe that Buckley ever said so, although it is so stated in an affidavit to which his name and a cross are affixed.

Further, Deponent saith not and hath signed.

WM. MARSDEN, M.D.

Sworn before me, this 7th day of Feby., 1851, at the City of Quebec.
G. HENDERSON, J.P.

The foregoing affidavit is also an answer to the Coroner's letter to Dr. Painchaud at page 97. I was informed by one of the Commissioners that the charge of proselyting Charlotte Crosby had been repelled by one Jane Hamilton, a nurse, and a Protestant; and having heard that she was a woman of doubtful reputation, and unworthy of credit, I obtained one of the affidavits published in the return; but was so much surprised by the disclosures it contained as to express my doubts of the truth of the statements made, before they were sworn to, when the party persisted in the truth, declaring that she could send me plenty more witnesses, which she did; and all the remaining affidavits, excepting two, were obtained from the parties who came voluntarily to my house, every one of whom I cautioned, on taking down such parts of their evidence as was sworn to, not to state any thing but what they knew themselves.

I now give two copies of letters sent me by the Coroner, as his excuse for declining an inquest.

QUEBEC, 15 *Février*, 1851.

MONSIEUR,—Je viens de l'Hôpital de la Marine et j'ai vu votre lettre d'hier, au sujet de la mort de Charlotte Crosby; je ne doute pas, que celui qui vous a informé du cas, n'ait été de bonne foi, et que ce qu'il vous a dit, était de nature à vous déterminer à une enquête. Mais mon cher monsieur, de tout cela, il n'en est rien; je sais que par malice et par vengeance, il y a quelqu'un qui cherche tous les moyens de troubler la paix de l'Hôpital; je vais entrer dans les détails du cas, et vous allez vous convaincre qu'il n'y a pas l'ombre à l'investigation légale: Charlotte Crosby est accouchée très-heureusement, à l'Hôpital de la Marine il y a une quinzaine de jours; elle se préparait à sortir prochainement de l'Hôpital, pour s'engager comme nourice; le 7 du courant, j'apperçus quelques taches (erythema) sur son visage, je prescrivis un purgatif, et cette menace d'érésipèle disparut, le 11 matin elle tomba en convulsions; je la trouvai dans un état à demi cornateux, très-irritable, et donnant quelques signes de connaissance, elle eut une convulsion durant ma visite; et je ne doutai plus que j'avais à combattr cette fatale maladie *lerésipèle des nouvelles accouchées; j'approuvai ce qu'avait* fait le médecin résidant dans mon absence, et je prescrivis; le Dr. Jackson vint visiter la malade à ma prière le traitement a été énergique et suivi; le Dr. Rowan s'est trouvé à l'autopsie; le cerveau n'annonçait rien d'extraordinaire, excepté les membranes qui nous parurent un peu infectées; tout allait donc à nous convaincre que la maladie était *l'érésipèle des nouvelles accouchées.* qui nous a enlevé tant de femmes à l'Hôpital de la Marine il y a quelques années, sans qu'on ait pensé à en informer le Coronaire. Voilà, mon cher monsieur, ce que je suis prêt à déclarer sous serment.

J'ai l'honneur d'être,
Avec haute estime, etc., etc.,

M. LE CORONAIRE. JOS. PAINCHAUD,

HOPITAL DE LA MARINE ET DES EMIGRES.
QUEBEC, 15 *Février*, 1851.

MONSIEUR,—J'accuse réception de votre lettre en date d'hier, et en réponse j'ai l'honneur de vous informer des faits suivants: que Charlotte Crosby, âgée de 19 ans, émigrée à bord du "*Polly*" a été admise à l'Hopital le 24 décembre dernier, enceinte d'environ 8 mois; qu'elle est accouchée le 20 janvier au matin, qu'elle paraissait se rétablir assez bien de ses couches, lorsque le 7 février au matin je fis remarquer au médecin visiteur quelques taches livides sur la figure de la patiente, que le médecin visiteur prescrivait pour elle immédiatement et que le 11 au matin elle fut subitement attaquée de convulsions. Je fis alors ce que les circonstances me prescrivaient de faire, et je notifiai de suite M. le Dr. Painchaud, qui avait la malade sous ses soins. M. le médecin visiteur approuva ce que j'avais fait, prit la malade sous sa responsabilité, prescrivit pour elle, et la vit plusieurs fois dans la journée, M. le Dr. Jackson, M. V., est venu sur l'invitation de M. le Dr. Painchaud, voir la femme dans la matinée. Les convulsions se sont renouvellées trois ou quatre fois dans l'avant-midi, mais après cela elle ne sortait d'un accès que pour retomber dans une autre. La mort est arrivée au milieu des convulsions vers 6½ heures le soir du même jour.

J'ai l'honneur d'être,
Monsieur,
Votre très obéissant serviteur,
C. E. LEMIEUX,
Chir. Interne.

J. PANET, Ecuyer,
Coronaire.

Having now failed in obtaining an inquest, I was determined not to be foiled in obtaining a knowledge of the cause of the death of Crosby, if possible, and succeeded, as will appear by the following affidavit:

PROVINCE OF CANADA,
DISTRICT OF QUEBEC.

William Marsden, Doctor in Medicine, of the City of Quebec, being duly sworn upon the Holy Evangelists of Almighty God, doth depose and say: That he opened and examined *post mortem*, the body of the late Charlotte Crosby, who was said to have died in the Marine and Emigrant Hospital, on the 11th of February, of puerperal erysipelas (*l'érèsypale des nouvelles accouchées*,) and notwithstanding the assertion of Dr. Joseph Painchaud, that "she died of puerperal erysipelas," and "érésipèle après l'accouchement" she did not die of any such disease, nor of "erysipelas," or "erythema," of any sort or kind whatsoever; and that there was not one single erythematous spot upon any part of her body, nor lesion of any kind, excepting what had been inflicted with the dissecting knife, previous to her interment, and further Deponent saith not, and has signed,

W. MARSDEN, M. D.

Sworn before me, at Quebec, this 7th day of July, 1851.
G. HENDERSON, J. P.

In support and confirmation of the above affidavit, I have to refer to Dr. Painchaud's letter at page 92 of the Return, and dated the 16th of February, 1851, addressed to Dr. Hall; which urges the immediate removal of a pregnant woman, "because of a recent fatal case of puerperal convulsions attributed to erysipelas," and Dr. Painchaud adds, "I have no doubt that you will coincide with me in the impropriety of having her in the same ward and even on the same floor."

To this Dr. Douglas who seems to have been in charge at the time, answers as follows:

(Copy.)

*QUEBEC, *15th February*, 1852.

DEAR DOCTOR,—Dr. Hall has just handed me your note of this date. You yourself were in full charge of the Hospital until Saturday. The fatal case you allude to terminated on Tuesday, and † *if there were then any suspicions of erysipelas, you ought not to have delayed doing your duty*, by urging on the Commissioners *the immediate necessity of causing the removal of any other pregnant woman from the Hospital.*

I have no power in this matter, but will, of course lose no time in laying it before the Commissioners.

Yours very truly,

(Signed,) J. DOUGLAS.

DR. PAINCHAUD.

It is proper to inform you that I afterwards examined the body *post mortem*, and am prepared to prove to the Commissioners, that one of the causes for refusing even a sight of the body to Mr. Andrews was that *contrary to law* ‡ *and practice*, a regular and

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* Misdated for 16th as will appear.—*W. M.*
† My italics—*W. M.*
‡ Act 7th Vic., Cap. 5.

systematic dissection had been commenced between 16 and 18 hours after death! And in addition to what is contained in the affidavit that the contents of the head had been dissected, both breasts removed, the contents of the abdomen, womb and appendages dissected, and the operation for aneurism performed on both thighs!!—Crosby's body did not come under the denomination of "unclaimed"; but if it had done so, twenty-four hours is allowed by law to elapse for that purpose before it can be dissected.

The non medical reader will not understand "the artful dodger's" trick, in writing the above letter to Dr. Hall, *on Tuesday the 16th*, the day after his (Dr. Painchaud's) term of duty terminated; and *five days after* the death of Charlotte Crosby. He, however, "reckoned without his host," as Dr. Douglas's answer shows:—Knowing, that in spite of his efforts to circumvent me, even through the coroner; I had actually *obtained sight* of the body on Saturday, the 15th, and dreading my "close pressure," it was necessary to play out the serio-comic farce he had begun. Unfortunately the fates were opposed to him, as "the pregnant woman expecting her confinement," *was actually confined the same night, and in the same ward, and attended by the same nurses as had attended the* FATAL PUERPERAL ERYSIPELAS *case*, and yet, *she recovered from her confinement* in due course, and was discharged *well*, and there were *no more cases of puerperal erysipelas* or *puerperal* convulsions in the Hospital. (N. B.—Dr. Painchaud is Lecturer on Midwifery, and the Diseases of Women and Children. He also receives £100 per annum for his *valuable* services in the Hospital.)

James Dean, Esquire, Chairman of the Board of Trade, until then, a total stranger to me, called on me on the morning of the 25th of February, 1851, stating, that he had heard that I had taken some affidavits, connected with complaints that I had made against the Marine and Emigrant Hospital, and asked my permission to see them which was granted. On the afternoon of the same day, I received the following note, to which I returned the annexed answer, with a copy of the affidavit asked for:—

QUEBEC, 25th *February*, 1851.

DEAR SIR,—I will feel obliged by your letting me know whether you would have any objection to let me have copies of the affidavits you showed me this morning, in case I should require them for the information of the Board of Trade, in a correspondence they have entered into with Government, on the subject of the Marine Hospital; and in the meantime, I should be glad if you would favor me with a copy of the affidavit of Mary Riley, as *a specimen*.

I am,
Dear Sir,
Your most humble and obedient servant,

JAMES DEAN.

W. MARSDEN, Esquire, M. D., &c., &c.

QUEBEC, 26th *February*, 1851.

JAMES DEAN, Esquire,
Chairman of the Board of Trade,

SIR,—In compliance with your request, as contained in your note of yesterday's date, I enclose you a certified copy of affidavit No. 4. As you expressed a desire to have communication, or copies of the other affidavits in my possession, in relation to the Marine and Emigrant Hospital, I have to inform you that the affidavits in question, have arisen out of an investigation of the case of the late Charlotte Crosby, a Presbyterian, who died suddenly, after only twelve hours illness, on the 11th instant, and sight of whose body was refused to F. Andrews, Esq., Advocate, her master, by Dr. Lemieux, the House Surgeon, when she was lying dead in the Hospital, and, who it was afterwards found, had been administered, when in a state of insensibility according to the rites of the Romish Church, (of whose doctrines she had always expressed the utmost abhorence, and was buried in the Roman Catholic Burial Ground.) My intention on taking the affidavits in question, was to furnish copies of them to the Commissioners of the Marine and Emigrant Hospital, in order to an investigation of the facts that they contain. Copies, however, will be furnished to them, in the course of this day or tomorrow, after which, I shall be prepared to furnish the Board of Trade, or any other organized body, with any information I possess touching an establishment that is so fearfully mismanaged in every department as the Marine and Emigrant Hospital.

I have the honor to be,
Sir,
Your obedient servant,

W. MARSDEN, M. D.

The above forms my whole connexion with the Board of Trade.

I will now give my "uncivil and threatening letter" to the Commissioners, together with its answer.

TO THE COMMISSIONERS OF THE MARINE AND EMIGRANT HOSPITAL, QUEBEC,

GENTLEMEN,—I have the honor to enclose you the accompanying copies of affidavits, which I have in my possession, touching the conduct of certain individuals in the employ and service of the Marine and Emigrant Hospital. I have also to inform you, that a system of proselytism is vigorously practised in the establishment, which I desire but the opportunity to prove.

The Board of Trade of this City having heard of my action in the matter of the accompanying affidavits, applied to me through its Chairman, a few days since, for copies of them, which however, I declined furnishing, until they had been laid before you, as the case out of which my investigation arose, had already been brought under your notice, and I think every case of complaint connected with the Hospital ought, in the first instance, to be brought before you; and in the event of your neglecting or refusing a *fair, honest, open and impartial* investigation, an application *en derniere resort* to the Executive would be highly proper.

I am prepared to furnish you collateral evidence confirming all the allegations and facts contained in these affidavits; but I did not think it necessary to procure any more at present, as abundance of fresh facts will come out in the course of your

enquiry into those already furnished. In reference to the case of Charlotte Crosby, I am ready to prove that she was not a convert to the Roman Catholic faith, although she was administered as such, and interred in Roman Catholic ground; and I have further to add, that the letters of Dr. Painchaud, one of your visiting Physicians, and Dr. Lemieux, your House Surgeon, in relation to her death to the Coroner, are contradictory as to details, and the former unfounded as to facts, and that Charlotte Crosby did not die in the manner, nor from the cause stated by Dr Painchaud, although he broadly declares, "that he is ready to make affidavit to his statement." It is proper to remark that these affidavits only contain a small part of what the different deponents can tell of the misconduct of the parties referred to; but I shall be ready to afford you every information in my possession, in order to enable you to conduct an impartial investigation, and to arrive at a fair and equitable decision.

I also enclose you a copy of a letter received by me from Mr. Andrews, the master of the late Charlotte Crosby. The facts contained in it, Mr. Andrews is prepared to attest on oath.

I have the honor to be,
Gentlemen,
Your obedient, humble servant,

W. MARSDEN. M. D.

MARINE AND EMIGRANT HOSPITAL,
QUEBEC, 6*th March*, 1851.

SIR,—I have the honor to acknowledge the receipt of your letter of the first instant, and of its enclosures touching the conduct of some of the officers of the Marine and Emigrant Hospital, and to inform you that the whole will be submitted to the Commissioners at their next meeting.

I have the honor to be,
Sir,
Your obedient servant,

N. CASAULT,
S. T. C. M. & E. H.

DR. MARSDEN,
Quebec.

From the above mentioned period, up to this time, I have not heard or seen anything about my complaints against the Hospital, exeepting the slander and vituperation contained in the Parlimentary return, (printed by order of the Legislative Assembly.)

I have strong doubts of the legality, but none whatever of the justice, of a Member of Parliament rising in his place and moving for copies of correspondence, and for their publication, as in the present instance, where their contents are of the most disgusting, libelous, malicious and false character, and both calculated and designed by their authors, to ruin the character and reputation of individuals, as in my own case. A man of mind so corrupt, and so recreant in both morals and professional character and standing, that, although the *Doyen* of the profession, he has been driven from every position of

honor within the gift of its members;—a man whose very breath is pollution, occupying the high position of Lecturer on Midwifery (not elected by the profession), where, "out of the fullness of the heart," *every lecture* to the listening student is charged with some foul or filthy joke or anecdote, so vile that he would not be allowed to occupy a like chair in any school in Europe for a single week,—one whose mind and feelings are so depraved, that he has never been known to deliver a single popular lecture without driving some part of his female auditory from the room, or causing them to blush and hide their faces, whilst the more callous and less refined portion of the male audience, have laughed and howled outright. Such is the man that has obtained and placed before four passive and unsuspecting instruments the filthy documents that have since appeared in print, by order of the Legislature, and on motion of Mr. Cauchon, M. P. P., who, (being the brother-in-law of Dr. Lemieux, the House Surgeon,) was behind the screen, and knew what the nature of the papers were. The mode of obtaining them, however, is not generally known. In two instances whilst Dr. Painchaud was gloating at the filthy mass that he had accumulated, two persons called on me to inform me, that Dr. Painchaud had asked them for testimony regarding me, with the design of injuring my moral character; and, as an inducement to a violation of faith, he told them both, that their communications would be "*kept secret from Dr. Marsden*, and would only be seen by the Governor, and perhaps by the Queen!" and, as an additional inducement to treachery, he offered the one, who was in embarrassed circumstances, a sum of money, and a free passage out of the country!!!

The following is a Report of the case of "Burke, for manslaughter," with my notes and commentaries, originally intended for publication in the *Medical Journal*; but which, on subsequent reflection, I have determined to give here, and I therefore insert it unaltered. I have come to this decision, in order, not only to put you in possession of the particulars of the case, but the four Commissioners also, who, not being medical men, cannot properly judge where the blame lies. By this Report it will be seen that Charlotte Crosby's death was not the only case of manslaughter committed in the Marine and Emigrant Hospital.

COURT OF QUEEN'S BENCH.

Crown Side.

Quebec, *July Term*, 1852.

In the Case of Thomas Burke, on his Trial for Manslaughter.

The Case of "The Queen, against Thomas Burke," to which the following extracts of evidence and remarks refer, was originally brought in the Queen's Bench, January Term, 1852, on an indictment for murder. On this charge "no bill" was found, but for the lesser crime of "manslaughter" a "true bill" was found. On the 28th of January,

the prisoner was arrainged on this charge, and pleaded " not guilty. " He was admitted to bail, and his trial fixed for the July Term.

On the 28th of July, he was placed at the bar, and put upon his trial, the Honble. Mr. Chauveau conducting the prosecution, on behalf of the Crown, and Mr. Pope, the defence. When the evidence on behalf of the prosecution was closed, and after Mr. Pope had addressed the Jury on the defence, in a most eloquent and effective speech, the presiding Judge, His Honor Sir James Stuart, Bart., charged the Jury, stating that no case had been made out against the prisoner, as no identity had been proved, as was stated by Mr. Pope in his address.

The Jury, without retiring from the box, after a short deliberation, returned a verdict, through their foreman, of " NOT GUILTY, " against the prisoner, and added, " *but the Jury is of opinion that the deceased died from the bad usage and neglect of the Doctors in the Hospital.* "

His Honor the Chief Justice, addressing the foreman said, " Oh ! never mind that, " as Burke only was on his trial, against whom the verdict of not guilty was recorded, and he was discharged from the bar. The above verdict was rendered by the foreman of the Jury, and not, as stated in one of the daily papers, " by a Juryman, " and the expression was precisely as above written.

As the evidence of the non-medical witnesses is unimportant, I have confined my extracts to the testimony of the medical men examined, of which I annex a certified copy, from the pen of Mr. Dunbar, law Reporter, to whom I beg to acknowledge my obligation with thanks. Although the medical evidence is not entire, (Mr. Dunbar having only taken down what he considered necessary,) yet, all the most important features of it have been most accurately preserved ; however, as I was present during the whole trial, (having been summoned as a witness on the defence,) I will supply any deficiency that may occur, in the course of my remarks.

The particulars of this case are, briefly, as follow :—Thomas Burke, who had formerly been a soldier in one of Her Majesty's regiments of foot, from which, he had been discharged, with a good character, was employed on board a vessel, at Diamond Harbour, as watch, on the night of the 21st and 22nd of June, 1851, and whilst thus employed was armed with a loaded musket. The deceased William Lawson, attempted to go on board of the vessel (as was since ascertained on his own confession in hospital,) to steal clothing, from the ship, belonging to seamen, who had, or were about to desert from her. Although warned off several times by the prisoner, and told that he was armed and would fire, unless he Lawson withdrew, he persisted in his efforts to get on board, and Burke (as he admitted in his voluntary declaration) " fired at some one, unknown to him," who attempted stealthily to get on board the ship, finding that his warnings were unattended to. The case was heard before their Honors the Chief Justice, Sir James Stuart, Bart., and Mr. Justice Panet. The following is the

MEDICAL TESTIMONY.

Dr. John P. Russel being sworn, said : About midnight, on the 21st June, 1851, I was called to attend the deceased William Lawson. I found him lying on a table, in a boarding house, kept by a Mrs. Toole, at Diamond Harbour. Upon examination I found several flesh wounds on deceased's left thigh ; they were lacerated, and some distance apart from each other ; those wounds in the front of the thigh especially. I percieved also, that there was a fracture, of the left thigh bone. I took the wounds to be such as would be caused by a gunshot ; there were four or five of them, and all apart from each other, therefore the gun must have been fired from a distance. When I saw deceased he was weak from loss of blood, as well as from the shock, which is always caused by a gunshot wound. I sent deceased to the Marine Hospital the same night. From that time to the 27th of January last, I did not hear or see any thing of him. On the 27th of January I attended the Coroner's Inquest in the Marine Hospital, and recognized deceased's body, by the wounds. The body was much emaciated, and it seemed to me that *deceased had died from hectic fever, caused by the constant continued irritations proceeding from the wounds.*

Cross examined :—*I did not consider the wounds mortal when I first saw them.* It is a general principle of surgery in cases of gunshot wounds, that when the bone is broken, amputation of the limb be resorted to. *In all human probability, the life of the deceased might have been saved if the limb were amputated.* The necessary inference would be, since the limb was not amputated, *the deceased was not properly treated.* I found my first opinion as to the necessity of amputation strengthened, by seeing the *shattered state* of the deceased's limb after death. *There was no hope of saving the limb except by amputation.*

Re-examined :—The danger to life in this case, would have been lessened by amputation. I do not think that the operation in this case would have been attended with more than ordinary danger.

Dr. Lemieux, House Surgeon of the Marine Hospital, upon been sworn, said : The deceased was under my care, when brought to the Hospital on the Sunday morning, about 4 o'clock ; he was very weak. I examined his wounds and found, that there were five or six on his thigh. I saw as many more on the front part of the thigh, I remarked that *the thigh bone was broken, and that the fracture communicated with the external wounds.* I applied what I considered best, to the deceased's wounds, until I placed him under the care of the visiting Surgeon, Dr. Rowand. I did not think *at that time* that amputation of the limb was either necessary or expedient, the nature of the wound did not make it so, the bone was only broken in one place. The deceased was under the influence of the shock caused by the wound for three or four days, during which time amputation would have been dangerous. *Subsequently however, amputation ought to have been effected* ; that is, it ought to have been done, *about three or four months* after deceased was brought to the Hospital. As soon as it was

ascertained that deceased was suffering from the injuries he received, amputation ought to have been resorted to, and he might have recvered. I would not say it would have saved his life. The deceased remained under the care of Dr. Rowand till the 15th August, when that gentleman's period of visitation expired. During the time he was so under his care, he did not appear to suffer much from the wound ; *he had a good appetite*; however, *during that time nature had done little to reunite the broken bone.* After the 15th of August the patient ought to have been under the care of Dr. James Douglas, but, *it is generally understood between the Doctors of the Hospital, that when he whose period of visitation commences, does not choose to take charge of a particular case, lying over from the preceeding quarter, the Doctor whose term expires, continues to look after the patient ; and I believe it was agreed, that Dr. Rowand should keep deceased.*

About two or three weeks after Dr. Douglas's quarter commenced, he asked me who looked after deceased ? and I told him, no one did. Dr. Douglas said that no matter under whose particular care he was, he should have some body to look after him *The same care however, which deceased had when Dr. Rowand attended him,* was *continued by me.* On the day I have mentioned, Dr. Douglas made me change the dressing of deceased's leg, *from a long splint to a double inclined plain,* and from that time *I was under the impresson* that Dr. Douglas assumed the charge of deceased. He remained so till the 4th of November, when I fell ill ; and from that period, till the 4th of January, I did not go near the Hospital. Towards the end of the time, deceased was under Dr. Douglas's care, that is about the end of the month of October ; his illness *seemed progressing, suppuration increased,* and *death seemed to be the inevitable result of it, unless the limb were amputated.* The state of the wound was such as foretold that consequence. On the 4th of January, deceased was again under Dr. Rowand's care, and some days afterwards, under that of Dr. Jackson, he was then weak and emaciated. I do not think it would have been then prudent to operate upon deceased ; he died on the 22nd of January, 1852. I examined the body after death *and did not find any organic disease.* The wounds, and their consequences, were alone the cause of death. *The patient ought to have undergone amputation when he was under Dr. Douglas' care.* Cross examined. I CANNOT SPEAK ENGLISH. I speak it but I prefer to speak French. *I have not much experience in gunshot wounds, in fact this was the first I saw.* Bony-union of the fracture could not have taken place as long as the wound remained open. *I cannot say for how many days or weeks before Dr. Rowands' first period of visitation expired, the bone was exposed. Its exposure was not the cause of constitutional irritation.* As long, however, as there was no union the irritation would go on. There was no time during which I was at the Hospital that deceased did not receive *proper* medical care and attention. Before Dr. Douglas saw deceased, *the limb had shortened about an inch and a half.* (The foregoing testimony of the House Surgeon of the Hospital, was all given in French, although, he was repeatedly asked, to speak English.)

Dr. Rowand, upon being sworn, said :—I knew the deceased, and had him under my care, *from the 22nd of June to the 15th of August*, and from the 15th of November to the first week in January. When I took him under my care he had not recovered from the effect of the wound. The thigh bone was fractured, but *not shattered.* During the time I had charge of him he received the best of attention, and *I did as much as I could* to promote his recovery ; *no medical man would have been justified in amputating the limb for the first three months after deceased's admission into the Hospital.* I would have considered the operation as the last resort. The deceased's temperament, as well as his enfeebled condition, would have rendered it extremely hazardous. In fact, *I think that deceased never completely rallied from the shock he sustained from the shot.* I was present at the *post-mortem* examination ; all the organs were healthy and free from disease. The thigh bone was fractured ABOUT ITS MIDDLE. Deceased died from the effect of the gunshot wound. Cross-examined :—In a gunshot wound, *of a nature similar to deceased's,* AMPUTATION WAS NOT NECESSARY. *It was a case of compound fracture but not an aggravated one.* Many such cases recover without amputation ; it was not necessary in this case. Re-examined :—Amputation, during the latter period of deceased's illness, would have been dangerous and impracticable.

Dr. James Douglas being sworn, said :—*Deceased was never under my charge.* When I saw him, I found him in an extremely bad condition. *He came to his death by the continual irritation of his wounds.* I ascribe his death to the gunshot wound. Cross-examined : Amputation, in cases of gun-shot wounds, may or may not be necessary, according to circumstances. *A few weeks after* the receipt of the wound *it could be known* whether it was necessary or not. *I know that if the present case were mine I should have removed the limb.*

Dr. Jackson, upon being sworn, said :—*Amputation was quite out of the question during the time deceased was under my charge.*. I attribute the cause of his death to the wound on the thigh. I made the *post-mortem* examination, and found all the organs healthy.

Dr. J. J. E. Landry being sworn and examined, said :—The death of deceased may be attributed to two causes, one remote, which was the gun-shot wound ; the other proximate, which was his long detention in Hospital ; constitutional irritation, and abundant suppuration. I do not wish to say deceased died by "*actes de commission*" but rather by "*actes d'omission.*" *Suppuration might have been shortened by recourse to amputation.*

The foregoing are all the notes of the medical testimony I took at the trial in this case, on the 25th of July, 1852.

(Signed,) J. DUNBAR,
Reporter.

The discrepancies and evident contradictions contained in the foregoing testimony, cannot fail to strike the most superficial reader. On one point alone were the medical witnesses unanimous, excepting Dr. Rowand, viz:—"That amputation ought to have been had recourse to, that the life of the deceased might have been saved, if the limb were amputated;" but, the *when*, and *by whom*, are unsettled points, and involved in contradictions, on which the general reader is unable to form on opinion.

As I am not in the general secrets of the "charnel house," and am quite unconnected with all the Physicians and Surgeons of the Marine and Emigrant Hospital, I will strive to point out the "actes d'omission" as well as the offending parties. With this object in view, I will briefly refer to, and compare the medical testimony, of each witness successively. I wish the reader to understand, that the *italicised* portions of the foregoing evidence have been so marked by me, for more easy reference. As a general rule it is exceedingly difficult, nay, highly improper, to give a medical opinion on a case that has not been attended or seen by the party giving the opinion; but, in a case like the present, in which the medical facts furnished, under oath, by half a dozen medical men, (*gentlemen and men of honour and probity,*) who have seen, and attended the case, from the moment of the injury, until after death, and "to the judgment;" the labour and the duty of the pathologist, is plain and simple; and in such case, certain physical and surgical pathological laws are ESTABLISHED, which enable him, (if impartial,) to arrive at a sound and correct diagnosis.

It is a surgical axiom, that gunshot wounds are always more or less dangerous; it would therefore be as absurd to cite authorities for this fact, as it would be impossible to furnish any denying it.

The testimony of Dr. John Russel, who was the first surgeon that saw the deceased, and who was also present at the *post-mortem* examination needs no commentary. Neither he nor Dr. Landry, (both men of talent and skill,) are in any way connected with the Marine Hospital. Dr. Russel's views are sound and correct, as well as independent and manly, and are borne out by the highest surgical authorities extant. I hold it from Dr. Russel himself, (although not stated in evidence,) that *such was the urgency of this case, in his opinion, that he would have amputated immediately* on seeing the patient, but that the house in which he was, was a crowded lodging house, in which there was not a single empty or quiet room to be had.

Dr. Russel says, "I did not consider the wounds mortal when *I first saw them.* Also, in all human probability, the life of the deceased might have been saved, *if the limb were amputated.* The necessary inference would be, since the limb was not amputated, *the deceased was not properly treated.* I found my first opinion, as to the necessity of amputation, *strengthened*, by seeing the SHATTERED state of deceased's limb after death. *There was no hope of saving the limb, except by amputation.*" I will now ask, Mr. Editor, were none of the Surgeons of the Marine and Emigrant Hospital aware of these facts

before death ? If they were not, they were grossly ignorant, and totally unfit for the discharge of their duties. I do not, however, think so ill of all of them, although I am constrained to believe what was said by the four gentlemen under oath, notwithstanding some of them may stultify themselves. The unfortunate deceased, however, had the benefit (!) of the services of a fifth Surgeon of the Establishment, although it does not appear in evidence ; Dr. John Lilly Hall, who has *a great desire to learn surgery*, and a great taste for poking both his fingers and his knife " into a man's ribs," at the risk of life, as I, with dozens of others can testify, from personal observation.

The testimony of the next witness is, that of Dr. Lemieux, the House Surgeon of the Marine and Emigrant Hospital. If evidence of the unfitness of this gentleman for his office were needed, we have it from his own lips. It must be borne in mind that the Hospital is an *English Hospital*, and that the patients of whatever class or denomination, *pay for their treatment*, and are therefore entitled to the best that money can procure. Now take the declaration on oath, of Dr. Lemieux, on being urged by defendant's counsel, to speak English—" *I cannot speak English ;*" and on being still urged to the same effect, his modified assertion, " je parle l'anglais, mais je préfère parler le français." Although Dr. L's pathological opinions are valueless as such, for reasons which I will presently give, some parts of his evidence call for notice. It may not be generally known (out of this City) that Dr. L's experience, has been entirely confined to the Marine Hospital ; and things were so managed previous to his appointment that this fact was not known even to the Executive that appointed him. He was, however, a student, walking the wards one day, and on the next was translated into the House Surgeon *of the largest and most important surgical Hospital* in British America. Dr. L., in his cross-examination, says ; he had not had much experience in gunshot wounds, and admits that Lawson's was his first case ; and yet, he comes into the witness box, and declares that, " he did not think that amputation of the limb was either necessary or expedient *at that time*," i. e., at first ; yet he adds, " subsequently however, amputation ought to have been effected, that is, it ought to have been done about *three or four months* after deceased was brought to the Hospital." The unfortunate Lawson's being "the first case of gunshot wound," in Mr. L's experience, of course, his opinions as above given under oath, are derived from some reliable source. As all my research and reading have failed me in this matter, as well as my experience, Dr. L. will confer a favor on the profession by citing his authorities.

I will first give the names of a few of the advocates of *immediate amputation* in gunshot wounds, with compound fracture of the thigh, and after referring to one or two of the most celebrated advocates of delay, will show how erroneous are the ideas of Dr. Lemieux, especially as to the time for the secondary operation. Abernethy and Faure are the only two opponents of the primary operation, worthy of note or consideration; but results establish conclusively, that

their opinions were erroneous in this respect, notwithstanding their general professional celebrity. "*To save one limb*" says Abernethy, "*is infinitely more honorable to the surgeon, than* to have performed numerous amputations, however successful;" on which Hennen, a celebrated military surgeon and writer, remarks; "That it is much better for a man, *to live with three limbs, than to die with four.*"

Among the advocates for *immediate amputation* are, Paré, Baron Larrey, Pott, John Bell, Le Dran, Guthrie, Ranby, Hennen, Pitcairne, Gunning, Dr. John Thompson, Schmucker, Velpeau, Wiseman, Sir A. Cooper, Dupuytren, and a host of other celebrities. Velpeau says (page 453, 2nd vol. 1st American edition,) "it is not in the neighborhood of the complex articulations only, that wounds from fire arms accompanied with fracture and with lesion of the synovial cavities are so dangerous; they are scarcely less formidable in the MIDDLE PORTIONS *of the long bones especially in the lower extremities.*" In the thigh, the indication is much more positive. Ravaton says; "if we do not amputate, this fracture almost always proves fatal." Schmucker who was Surgeon General to the Prussian armies, under the campaign of Frederick the Great, says, "that in cases of compound fracture of the thigh, only one patient is saved, out of seven, without amputation." Lombard holds the same language. M. Ribes, (Gazette Medical de Paris 1831, p. 101,) who has seen *none* recover, gives the history of ten cases, in whom the utmost care could not prevent a fatal issue; and mentions also, that at the Hotel des Invalides, "in an aggregate of 4,000 cases, there was not a single patient that had been cured of this kind of wound." M. Yvan pointed out two to him, in 1815, in whom, however, fistulous openings formed, and who ultimately succumbed from the consequences of their fracture. I notice, that M. Gaultier de Claubrey, formerly a surgeon in the Imperial Guard, is, on this point, of the same opinion as M. Ribes; and that, in the army in Spain, almost all the soldiers that had fracture of the thigh, died unless *amputation had been performed immediately.* Schmucker says further, "all fractures of the *middle* or *upper part of the femur* are attended with great danger. But if the fracture be situated at the lowest part of the bone, the risque is considerably less, the muscles here not being so powerful; in such a case, therefore, amputation should not be performed, before every other means has been fairly tried; and very frequently I have treated fractures of this kind with success, though the limbs sometimes continued stiff. But if the bone be *completely fractured* or *splintered* by a ball *at its middle* or above that point, *I never wait for the bad symptoms to commence, but amputate ere they originate,* and when the operation has been done *early enough,* most of my patients have been saved. However, *when some days had transpired, and inflammation, swelling, and fever had come on* I must candidly confess, that *the issue was not always fortunate.* Yet, *the operation should not, on this account, be dispensed with;* for, if only a *few,* can thus be saved out of many, some benefit is obtained, as without this step, such few would also perish." I have above stated, that the results of the practice of the advocates of delay

in amputation, was against them; and I will give a few facts in support of this assertion. Faure says, "That of about *three hundred amputations*, performed after the battle of Fontenoy, *only thirty* were followed by success;" whilst on the other hand, Baron Larrey says, speaking in favor of the immediate operation, "We have *saved more than three-fourths* of the patients *on whom amputation has been done*, and some of whom also had two limbs removed."

"I believe it to be (says Mr. Guthrie) a stretch of fancy in those Surgeons who conceive, that, if the knife followed the shot in all cases, the patient would have the best chance of success. No one will deny, that if the shot performed a regular amputation, it would not be better than to have to do it afterwards; but if they mean to say, that the operation should, in general, be performed immediately after the injury, I can only oppose to them, the facts above stated, and the general result of my experience, which is decidedly in favour of allowing the *first moments* of agitation to pass over, before anything be done: a period extending, from that to *one, six* or *eight hours*, according to the difference of constitution, and the different injuries that have been sustained; but *from one to three hours will, in most cases, be found sufficient.*" Dupuytren says, "I do not fear to lay it down as a principle, that in complicated gunshot fractures, a greater number of individuals are *lost by deferring the operation, than that of limbs saved.*" Pott, on amputation says, "In many cases a determination for or against amputation, is really a determination for or against a patient's existence."

Faure, the advocate of delay in amputation, fixes his secondary period at from the *fifteenth to the twentieth* day, and another writer at from *twenty to thirty days*. The reason for these delays is obvious where hope is entertained of saving the limb. THE LONGER PERIOD OF THIRTY DAYS WOULD BE AMPLE TO ALLOW NATURE TO SHOW WHAT EFFORT SHE WAS CAPABLE OF.

The following extract of a letter from Mr. Feroc, Surgeon to the ship *Le Jemappe;* (Cooper's Dic: Prac: Sur: Lond. Ed., 1838, p. 646,) is conclusive in favor of the immediate operation. "After the naval engagement of the 1st of June, 1794, a great number of amputations were done *immediately after* the receipt of the injuries. *Sixty of the patients whose limbs had been thus cut off*, were taken to the Naval Hospital at Brest, and put under the care of Mr. Duret. With the exception of *two*, who died of tetanus, *all the rest were cured;* and there was one who had both his arms amputated." "The Surgeon of the *Temeraire*," on the contrary, "which ship was captured by the English, was desirous in compliance with the advice of their medical men, to defer the operation, which many of the wounded stood in need of, till his arrival in port; but he had the mortification to see them all die during the passage, &c.." On this subject Baron Larry desires us "to interrogate the invalids, who have lost one or two of their limbs, and nearly all will tell us that they suffered amputation immediately after the accident, or within the first four and twenty hours." I could multiply authorities in favor of the primary

operation to almost any extent, but, I think I have given enough to show its advantages over delay, and will close this part of my subject with an extract from a work of Mr. Guthrie. "It appears by some returns collected by him that, in the peninsular, the comparative loss, in secondary or delayed operations, and in primary or immediate amputations, was as follows:—

	Secondary.		Primary.
Upper Extremities,.....	12	to	1
Lower Extremities.....	3	to	1

To return to Dr. Lemieux's testimony. He says, "the deceased was under the care of Dr. Rowand from the 21st of June to the 15th of August," a period of eight precious weeks! "During that time nature had done little to re-unite the broken bone!" "The leg was shortened an inch and a half!" notwithstanding "the long splint." "About the end of October, his illness *seemed progressing, suppuration* INCREASED, *and death seemed to be the inevitable result of it, unless the limb were amputated.*" The bone was exposed and visible on the 15th of August, when Dr. Rowand's turn of duty terminated; but Dr. L. "did not know how many days or weeks the bone had been so exposed before that time." "The patient ought to have undergone amputation when he was under Dr. Douglas's care!" Dr. Lemieux seems to be most anxious to fix the charge of neglect in amputating on Dr. Douglas; but, will he or Dr. Rowand say why Dr. R. did not amputate within eight weeks, "when nature was doing little," which the *post-mortem* shows to have been *nothing at all*, "to re-unite the bone?" Dr. L. also declares, that "*I believe it was agreed that Dr. Rowand should keep deceased;*" and yet, he says: "the patient ought to have undergone amputation when he was under Dr. Douglas's care."

Dr. Rowand states "that the thigh bone was fractured but *not shattered;*" on his cross-examination however he is obliged to admit that "the fracture was a compound comminuted one," which the *post-mortem* examination showed; and yet, he added, "*no medical man would have been justified in amputating the limb for the first three months* after deceased's admission into the Hospital." Will Dr. Rowand say why, for I cannot? He says, that "deceased's temperament, as well as his enfeebled condition, would have rendered amputation extremely hazardous." Does Dr. R. think that the deceased would be stronger at the end of *three months*, by lying on his back, with a "long splint," and a short leg, and "the bone protruding, and "a mass of muscle between the fractured ends," than he was *three or four hours*, or at most *three or four weeks* after the receipt of the injury? Does Dr. R. seriously think "*that deceased never completely rallied from the shock he sustained from the shot?*" Does Dr. R. not know that, if nature had done nothing, to repair the injury within a month, it was not likely she would do anything at all; and therefore, every day that the limb remained on, was a day lost to the ent, and diminished his chances of ultimate recovery, from an

operation, which afforded the only chance of saving his life? Did not Dr. R. know, that it often happens, in gunshot wounds, complicated with fracture, *notwithstanding the most skilful treatment* that the discharge becomes of a bad quality, the fragments of bone lie surrounded with the matter, *and have not the least tendency to unite;* the patient is attacked with hectic fever and a colliquative diarrhæa; and that under these circumstances life may *sometimes be preserved* by amputation?"—(Coop: Sur: Dic. p. 648.)

Dr. Douglas swears distinctly, that "*the deceased never was under his charge*", and Dr. Lemieux confirmes this assertion. Dr. D. said "he made it a rule never to take charge of another man's bad cases of Surgery:" and, "that he saw that the man was in an extremely bad condition, and that the limb was bespoke," that deceased came to his death *by the constant irritation of the wounds.* About three weeks after Dr. Douglas had entered on his turn of duty, finding that no one seemed to be doing any thing for deceased, who complained of suffering, he said, "that some body ought to look after him: and finding the bone exposed and the limb two inches shortened, and a great mass of flesh between the ends of the bone, for humanity's sake ordered the long splint to be removed and the double inclined plane substituted," as the saving of life was then the object and not the limb. Will Dr. Rowand give his authority for the continued use of this cruel and useless apparatus for nearly twelve weeks? Why did not Dr. Rowand amputate as was his bounden duty? "*A few weeks after the receipt of the wound,*" as Dr. Douglas stated, "*it could be known whether amputation was necessary* or not." There could be no excuse for not removing the limb, excepting, the unwillingness of the patient, which does not appear to have been the case. The deceased evidently, never was under Dr. Douglas's charge, and he closes his testimony by saying, "that if the present case were mine, *I should have removed the limb.*" Any one that knows Dr. Douglas will fully appreciate this last declaration. I think with O Halleran, that it is not enough for a surgeon to know *how* to operate; he must also know when to do it, and I, in common with others of my professional brethren, have thought that Dr. Douglas's fondness for, and boldnes in operations, sometimes lead him to use the knife where it might have been spared, but I never either knew or heard of his neglecting or avoiding an operation.

Dr. Jackson said, most truly, that, "amputation was quite out of the question during the time deceased was under his charge." In fact he could only be said "to have been in at the death."

Dr. Landry, said most correctly, that, the proximate cause of the death of the deceased, was *constitutional irritation and abundant suppuration,*" He also states, that the deceased died by "actes d'omission," and explains all, by saying that *suppuration might have been shortened by recourse to amputation.*" I ask again why it was not done? Cooper says on this subject, "If, at the end of twenty or thirty days the prognosis is as bad as it was previously, *amputation cannot be avoided.* Thus, all the sufferings which the patient has en-

dured *have been undergone for nothing*, and the operation will now be attended with considerable risk, inasmuch as *the patient is in a dangerously weakened state*. If nature revives at all, no doubt the success of the operation becomes more probable; but, in this case, the surgeon instead of having recourse to amputation, should redouble his efforts to preserve the limb." For the unfortunate deceased to have survived such tratement as he received at the Marine Hospital for *seven months and a day*, he must have had an iron frame, and giant strength, notwithstanding Dr. Rowands allusion to his enfeebled constitution. The immolation of poor Lawson, has brought forth an expression of public opinion through a Jury, that will shake the management of the Marine and Emigrant Hospital to its foundation. The complaints of individuals, as well as bodies respecting this institution, have hitherto been treated with utter contempt. I had occasion as long ago as the 1st of March, 1851, to complain to the Commissioners for the second time, that a patient (a servant of my brother-in-law,) had died in the Hospital *from improper treatment*, and stated that I was prepared to prove my charges whenever the Commissioners chose to call upon me; but from that day to this, the only result, as far as my charges were concerned, has been an *exparte* examination of the *guilty parties*, (not their accusers) and the publication of a disgusting and false report, that would from any other source than Parliament have been treated as a libel. Whenever the portals of the Insittution are opened to an impartial investigation, either by Parliament, or by an independent Commission, I shall be able and prepared to expose a few more of the professional delinquencies that have disgraced the management of the Institution for some time past, such as unnecessary operations, followed almost by immediate death!—death from improper treatment, and ignorance!! attempting dangerous and unnecessary operations, treatening life, by ignorant and unskilful persons!!!—commencing operations, which the operator was unable to complete; and rendering the sufferer worse than before!!!!—scalding to death by hot baths, so that the skin has slipped off the body on lifting the living corpse out of the boiling water!!!!!—Dreadful and incredible as these things seem, THEY ARE FACTS. They have been reported to some of the Commissioners, who pretended not to believe them, but, *they have not dared to investigate them*, nor to call upon the parties who make these statements, (of whom I am one) for a confirmation of them.

I have the honor to be,
Your obedient servant,

W. MARSDEN, M. D.,
6, Anne Street, Quebec.

16th August, 1852.

In closing these pages I most emphatically deny the right of the four Commissioners of the Marine and Emigrant Hospital, (with which I never had any connexion,) or any other body whatsoever, to investigate my conduct, or to traduce my character as they have done, whether it be good or bad. The novelty of trying a man in his absence, and without charging him with any specific offence, has been reserved for the four Commissioners of the Marine and Emigrant Hospital. Their conduct towards me has been most wanton, cowardly and unmanly. The term un*gentlemanly* could, under any circumstances, only apply to one of them ; but, in this case, the error I believe is rather of the head than of the heart. Towards the others, I make no reservation.

The duty of the four Commissioners, and all the Commissioners, was strictly confined to an honest and impartial investigation of the truth of the charges brought against the establishment over which they preside ; and had their self-esteem been a little less, and their conscientiousness a little greater, they would not have thought me " uncivil " or " threatening, " (for I am in earnest,) and although my charges might in some measure have told of their neglect, *they need not have feared the truth.* The fact is, that the four Commissioners were not aware of the slippery and insincere character they had to deal with, in the Doyen of the medical profession of Quebec, who, by his falsehood and duplicity, has not only deceived and compromised them, but the Executive Government also.

I respectfully submit the foregoing pages for your attentive perusal, consideration and action, as they embrace serious and weighty matters, that are either TRUE or FALSE. If true, your course is straight and even, but if false, it will only be common justice to the parties calumniated, to hold up their accusers (among whom I stand) to public odium, as a warning to others in like manner offending ; but I AM PREPARED TO PROVE THEM TRUE.

" Magna est veritas et prevalebit."

W. MARSDEN, M. D.

Quebec, 30th August, 1852.

P. S. Since writing the foregoing pages the commissioners have *resigned!* Was the pressure from without too great for them ? Their successors will now have a clear stage for action ; and will not be obliged to resort to the herculeau task of " changing the course of the river" to clean out the augean stables. A hundred facts await their hearing.

Let them bear in mind that the patients are British and Irish, and that their natural feelings and sympathies are the same ;—that they pay for all they receive, and are therefore entitled to the best care and attendance that money can procure for them ;—and that the patients are not *paupers* on whom medical tyros have a right to exercise their budding genius.

The Marine and Emigrant Hospital has been under gallic dominion from the day the trickey doyen entered it until now ; he having exercised the " banal" right of officering it exclusively ; either from his family, his relatives or his students.

W. MARSDEN, M. D.
6, Anne Street

Quebec, September 16th, 1852.