

In the Privy Council.

ON APPEAL FROM THE HIGH COURT OF AUSTRALIA.

BETWEEN

STELLA EILEEN HOCKING (Plaintiff) - - - - *Appellant*

AND

GEORGE BELL (Defendant) - - - - - *Respondent.*

RECORD OF PROCEEDINGS

VOLUME 1

(Pages 1 to 502)

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LIGHT & FULTON,
24 JOHN STREET,
BEDFORD ROW, W.C.1,
Solicitors for the Respondent.

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92, 1947

In the Privy Council.

No. 84 of 1946.
UNIVERSITY OF LONDON
W.C.1.

- 4 OCT 1956

ON APPEAL FROM THE HIGH COURT OF AUSTRALIA.

INSTITUTE OF ADVANCED
LEGAL STUDIES

BETWEEN

STELLA EILEEN HOCKING (Plaintiff)

- Appellant

AND

GEORGE BELL (Defendant)

Respondent.

RECORD OF PROCEEDINGS.

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" 2 "	Probe	—		—
" 3 "	Catgut produced by Defendant	—		—
" 4 "	Slides produced by Respondent used in lectures by him	—		<i>Not printed</i>
" 5 "	Two types of swabs	—		—
" 6 "	Stitching needle, round bodied and curved with needle holder	—		—
" 7 "	Needle with cutting edge produced by Defendant	—		—
" 8 "	Synopsis of temperature, pulse and respiration charts from Hospital Records (St. Luke's, 1938)	1938		1720

EXHIBIT MARK	DESCRIPTION OF DOCUMENT	DATE	VOLUME	PAGE.
" 9 "	Johnson & Johnson's Handbook of Ligatures and Sutures	—	4	<i>Not printed</i>
" 10 "	Probe and two tonsils in bottle	—		—
" 11 "	X-ray of Plaintiff taken by Dr. O'Hanlon ..	—		<i>Not printed</i>
" 12 "	Sketch Plan of Plaintiff's house in Quirindi	—		<i>Not printed</i>
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" 18 "	X-ray — Tonsil — Thyroid (25), Professor Shellshear)	—		<i>Not printed</i>
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In the Privy Council.

ON APPEAL FROM THE HIGH COURT OF AUSTRALIA.

BETWEEN

STELLA EILEEN HOCKING (Plaintiff)

Appellant

AND

GEORGE BELL (Defendant)

Respondent.

RECORD OF PROCEEDINGS.

10

No. 1.

ISSUES FOR TRIAL.

No. 96 of 1941.

IN THE SUPREME COURT OF NEW SOUTH WALES.

Between STELLA EILEEN HOCKING

Plaintiff

and

GEORGE BELL - - - - -

Defendant.

*In the
Supreme
Court of
New South
Wales.*

No. 1.
Issues for
Trial,
7th August
1941.

ISSUES FOR TRIAL.

15th January 1941 Writ Issued for £3,000.0.0.

21st January 1941 Appearance Entered.

20 13th February 1941 Declaration.

30 STELLA EILEEN HOCKING by KENNETH ERIC THOMAS her Attorney sues GEORGE BELL for that before and at the time of the grievances hereinafter alleged the Defendant was a legally qualified Medical Practitioner practising as a Surgeon and the Plaintiff retained the Defendant for reward to perform upon her a certain surgical operation and to undertake and give to the Plaintiff such care and attention as might be necessary consequential upon the performance of the said operation and the Defendant duly accepted such retainer and it thereupon became the duty of the Defendant as such Surgeon to use due and proper care skill and diligence in and about the performance of the said operation and such care and attention as aforesaid yet the Defendant in the performance of the said operation and in the giving to the Plaintiff of such care and

*In the
Supreme
Court of
New South
Wales.*

No. 1.
Issues for
Trial,
7th August
1941,
continued.

attention as aforesaid conducted himself so unskilfully and with such lack of proper care and diligence that the Plaintiff was a long time sick and was greatly injured in her health and constitution and suffered great pain and was put to great expense in the employment of other medical care and nursing and hospital attention and in the purchase of necessary medicines and was otherwise greatly damnified AND the Plaintiff claims the sum of THREE THOUSAND POUNDS (£3,000.0.0).

PARTICULARS OF CLAIM UNDER RULE 517.

St. Luke's Hospital 22/2/38 to 14/4/38	..	..	£17	8	0	
Dr. Harold Ritchie	..	..	5	0	0	10
Quirindi Hospital 4/5/38 to 9/6/38	..	..	26	10	0	
Dr. Kevin O'Hanlon	..	..	30	4	6	
Sister Sly (Special Nurse)	..	..	23	7	6	
Miss Maher and Miss Barnett	..	..	60	0	0	
Chemists	..	..	35	0	0	
Ambulance (Central Railway to St. Luke's)	..	..	1	1	0	
Dr. Hansman	..	..	6	6	0	
Dr. Marsh	..	..	3	3	0	
Dr. Harold Ritchie	..	..	3	3	0	
Quirindi Hospital 3/9/38 to 7/9/38	..	..	2	2	0	20
Incidental and Travelling Expenses	..	..	50	0	0	
St. Luke's Hospital 26/10/39 to 3/11/39	..	..	9	3	8	
			<hr/>			
			£272	13	8	
			<hr/>			

4th July, 1941 Pleas :

The Defendant by GEOFFREY RICHMOND REX his Attorney says that he is not guilty as alleged.

8th July, 1941 Replication :

The Plaintiff joins issue upon the Defendant's Plea herein.

Therefore let a Jury come etc.,

Dated this seventh day of August One thousand nine hundred and forty-one.

K. E. THOMAS,
Attorney for Plaintiff,
Municipal Building,
George Street,
Quirindi, N.S.W.

By his Agents :
WILSON & CLAPIN,
Solicitors,
14 Martin Place,
Sydney.

PLAINTIFF'S EVIDENCE in previous Trials.

In the Supreme Court of New South Wales.

No. 2.

FIRST TRIAL.

EVIDENCE of Stella Eileen Hocking.

Plaintiff's Evidence in previous Trials.

IN THE SUPREME COURT of NEW SOUTH WALES IN CAUSES } Coram : STREET, J., and a Jury of Four.

No. 2. First Trial.

Monday, 8th December, 1941.

10

HOCKING V. BELL.

Stella Eileen Hocking, 8th December 1941.

Mr. HARDWICK, K.C., and Mr. BRIAN CARSON, appeared for the Plaintiff.

Mr. MONAHAN, K.C., and Mr. REIMER, appeared for the Defendant.

PLAINTIFF.

Sworn : Examined : Deposed :

Examination.

To Mr. HARDWICK : My full name is Stella Eileen Hocking. I am the wife of Edmund Hocking, of Quirindi, and I live with my husband in Quirindi. I am the plaintiff in this action. Prior to the beginning of 1938 I had never had any serious illness. It was my first illness. I was under Dr. O'Hanlon's care in Quirindi before I came to Sydney. It was on Dr. O'Hanlon's advice that I came to Sydney and I saw Dr. Ritchie. Dr. Ritchie suggested that I see somebody and I saw Dr. Bell, the Defendant.

Q. I want you to tell His Honor and the jury what did Dr. Bell say to you after you had seen Dr. Ritchie and had seen Dr. Bell ?—A. He asked me had I made any arrangements for a cot and in which hospital I was going into.

Q. Did he suggest that you ought to go into hospital ?—A. Yes, he suggested that I go into hospital.

Q. Was any particular hospital suggested ?—A. St. Luke's Hospital.

30 Q. I think you saw Dr. Bell and Dr. Ritchie on what date ?—A. I don't remember the date.

Q. Was it somewhere about the 21st February 1938 ?—A. Yes.

Q. And when did you go into St. Luke's Hospital ?—A. On the Monday.

Q. The day after or the same day ?—A. The next day.

Q. Did you have a single room at St. Luke's Hospital ?—A. Yes, I had a private room at St. Luke's Hospital.

Q. How long were you in the hospital before any operation was performed ?—A. I think it was three weeks I was there, I am not sure.

40 Q. You remember the day of the week you were operated on ?—A. The Tuesday.

Q. That would be the 15th March 1938 ?—A. Yes.

Q. Did Dr. Bell say anything to you about the type of operation he was going to perform prior to doing it ?—A. No.

Q. You knew what the trouble was ?—A. Yes, he said it was a thyroid operation.

*In the
Supreme
Court of
New South
Wales.*

*Plaintiff's
Evidence
in previous
Trials.*

*No. 2.
First Trial.*

*Stella
Eileen
Hocking,
8th
December
1941,
Examina-
tion,
continued.*

Q. After the operation was performed did you notice anything—have you got the mark on your neck where the operation was performed?—A. Yes. (Indicating.)

Q. After you came out of the operating theatre and went back to your room did you notice anything near your neck?—A. Yes, I had a bandage around my throat.

Q. Anything else?—A. That is all I noticed immediately.

Q. In the course of a day or so did you notice anything else?—A. Yes, there was something sticking out the right side.

Q. Will you indicate where it was?—A. It was somewhere about 10 here (indicating right side of throat slightly towards the right of the centre of the throat). There is a slight scar where it was.

Q. Do you remember some few days after the operation what your condition was in appearance, how did you appear?—A. I was very swollen around the neck and face.

Q. How did you know that?—A. It felt very tight and uncomfortable, by feeling it I could tell it was swollen.

Q. Were you seeing Dr. Bell from time to time?—A. Yes, each day. Sometimes more often than once a day.

Q. After some days did Dr. Bell have some conversation with you 20 about what you have described?—A. No.

Q. About the swelling?—A. Yes, about five days after he said he was going to loosen the stitches and remove the drain because the drain was not working properly.

Q. You might just describe to the Court what happened?—A. Dr. Bell tried to remove the drain and he pulled a couple of times very hard, then he put his hand on my forehead and pulled hard and the drain came out as I thought and he said "Damn," and I said "Oh," it was stinging my throat and he threw it into the tray and he and the sister went out.

Q. Did you have an opportunity of seeing what it was that he did?— 30
A. I saw a little black thing between his fingers.

Q. Could you give us an idea of the size of the thing that Dr. Bell had?—A. Not exactly, but it was only a small piece, a very small piece.

Q. What was your condition like after that that you just described?
—A. I gradually grew worse for some time.

Q. Can you describe yourself what you noticed about yourself during those succeeding days?—A. I was terribly swollen, I was really very ill during that period.

Q. You remember Dr. Bell seeing you?—A. Yes, Dr. Bell saw me and recommended hot fomentations. The nurse began putting hot fomentations on 40 so that it would break the wound and would discharge, the discharge would come away.

Q. Is that what Dr. Bell said?—A. Yes.

Q. For how many days were those hot fomentations applied?—A. They were applied on several occasions but on the last occasion they were applied for quite a long while, for several hours, and the wound broke and a discharge started to come away, and I got a little better after a time.

Q. For how many days do you say the discharge was coming away?
—A. It was rather bad for some days, three or four days I suppose, it would stop and then just break away again when it was probed. 50

Q. Do you remember after it broke and the discharge came away, do you remember Dr. Bell doing anything with the assistance of the

sister?—A. Yes, on several occasions he used to put his hands around my throat and press forward very hard.

Q. Which way?—A. Like this. (Witness indicating hands around throat with thumbs to the front.) Just above the wound and the sister would have the forceps and he would say "Now" and she would pick at the wound and he said he was looking for knots.

Q. When he said "Now" what would the sister do?—A. She would be watching the wound and she would pick and there did not seem to be any knots.

10 Q. Where do you say the actual wound was, where you described before, just to the side of the centre where the pricking was going on?—A. Here, right in the centre. (Indicating.)

Q. You left St. Luke's Hospital on the 14th April 1938. Before you left did you notice anything about yourself?—A. Yes, I had twitching and prickles in my hands and feet, and doctor said it was pins and needles and he said a few doses of calcium and I would be quite all right, but I did not continue . . .

Q. Just tell us what he said. While you were in St. Luke's Hospital did you just have the feelings that you described, the pins and needles?

20 —A. Yes.

Q. Did Dr. Bell say anything about the cause of these feelings or sensations?—A. He told my husband about the case.

Q. Did he have any conversation with you other than what you have told us?—A. No, nothing.

Q. Do you remember the doctor making any mention about anything he had used in connection with the operation?—A. He said he had used the very best gut and of course I don't know . . .

Q. Did he say anything else about these sensations in reference to that conversation?—A. No.

30 Q. Did you leave for Quirindi as soon as you left St. Luke's?—A. That same day.

Q. Your husband took you home?—A. Yes.

Q. When you got home what was your condition?—A. I was really very ill when I got home for a while.

Q. Were you in bed?—A. I was in bed for a couple of days and I was very swollen around the face and the left shoulder.

Q. Was it swollen when you left Sydney?—A. Not quite so much as it was when I got home.

40 Q. And what is the next thing that happened in the course of your illness, you have told us about your face being swollen, what about these sensations?—A. They gradually grew worse.

Q. In what way did they gradually grow worse?—A. I first noticed it in the left side of the face, my face started to draw up on the left side and then I used to get worse and my hands used to clench.

Q. Demonstrate to the jury how you mean?—A. My fingers would clench up and my finger nails would cut into the flesh and my knees would be drawn up under my chin and I would be in a tight little ball.

Q. How often did this happen before you went to Quirindi Hospital?—A. I had a slight attack.

50 Q. What was the slight attack like before you went in?—A. The tightening of the hands and the jerks of the muscles of the feet and legs but not so much.

*In the
Supreme
Court of
New South
Wales.*

*Plaintiff's
Evidence
in previous
Trials.*

*No. 2.
First Trial.*

*Stella
Eileen
Hocking,
8th
December
1941,
Examina-
tion,
continued.*

*In the
Supreme
Court of
New South
Wales.*

*Plaintiff's
Evidence
in previous
Trials.*

No. 2.
First Trial.

Stella
Eileen
Hocking,
8th
December
1941,
Examina-
tion,
continued.

Q. What about the face?—A. And the face too.

Q. Do you remember when Dr. O'Hanlon was called in in relation to the date you went into Quirindi Hospital?—A. I do not remember the date.

Q. The records show apparently that you went into Quirindi Hospital on the 4th May 1938. Can you tell us when Dr. O'Hanlon saw you prior to going into hospital?—A. It was the night before, he wanted to take me up then but I would not go till morning.

Q. Was that the first time he had been called in?—A. Yes.

Q. Before you left St. Lukes, had any treatment been prescribed 10 for these sensations that you describe?—A. The calcium tablets.

Q. Who prescribed those for you?—A. Dr. Bell told me to take them.

Q. When you went into Quirindi Hospital, and you have told us about this first change of sensations you had, was it better after you went to hospital or worse?—A. Worse.

Q. I think you were in Quirindi Hospital up to the 9th June 1938?—
A. Yes.

Q. So that you were there five weeks and a day?—A. Yes.

Q. During the time you were in Quirindi Hospital I want you to 20 tell the court how did these sensations manifest themselves, were they less or greater?—A. Greater.

Q. Tell us in what way, tell us what you had. How many did you have, can you remember?—A. They were very frequent, I cannot remember.

His HONOR: Would they be one a day?—A. Not every day.

Mr. HARDWICK: How many did you have while you were in Quirindi Hospital?—A. I would say five or six.

Q. When you had those was there any special treatment given to you?—A. They just gave me an anæsthetic to relieve the muscles. 30

Q. Was that an injection?—A. No, then I had the injections as well.

Q. What anæsthetic were you given, do you remember what particular drug was given to you?—A. I don't know, just an ordinary anæsthetic I think.

His HONOR: A general anæsthetic under a mask, was it?—
A. Yes.

Mr. HARDWICK: Do you remember what else was done to you while you were in hospital?—A. They used to massage me, massage my muscles to strain the arms and legs into position and then Dr. O'Hanlon gave me the injection in the large vein in the arm. 40

Q. How often were you given those injections?—A. Every morning.

Q. Were they given to you every time you were in the hospital?—
A. Yes.

Q. Did something happen later on, did they cease?—A. Yes, they ceased after I came home.

Q. But during the first period you were in the hospital you say you had them daily?—A. Yes.

Q. And notwithstanding the daily injections you still had those spasms?—A. Yes.

Q. Was there any one of those spasms worse than any others?— 50
A. Yes, there were, some lasted two or three hours.

Q. And you might tell us how was your face during this time?—
A. Terribly swollen.

Q. Was the wound opened or healed during the time you were in hospital?—A. It was open, it had to be kept open.

Q. Was there anything coming from it?—A. Yes, a discharge coming from it.

Q. During the time you were in hospital was anything done to the wound by anybody?—A. It had to be probed every morning to be kept open; they said it had to be kept open.

10 Q. Was that told to you before you left Sydney?—A. Yes, Dr. Bell told me.

Q. Did he say anything about what he was going to do with respect to Dr. O'Hanlon before you left Sydney?—A. He said he would write to Dr. O'Hanlon.

Q. Did he say what for?—A. I suppose . . .

Q. Don't suppose anything, tell us something of the treatment?—
A. Told him about the treatment, I suppose.

Q. That is what he said?—A. Yes.

20 Q. While you were in the hospital at Quirindi, do you remember something happening on one occasion, feeling something?—A. Yes.

Q. Tell us how long that was after you went in or before you came out?—A. I think it was about a fortnight after I had been in.

Q. Just describe what you did and what you noticed?—A. I turned my head suddenly to the left side and something stuck in my throat and it started to bleed through the wound.

Q. Can you indicate whereabouts it was?—A. It was there (indicating left side).

Q. Just about one inch up from the scar?—A. Yes.

30 His HONOR: And you say there was some bleeding; where was that?—A. Through the opening in the front.

Mr. HARDWICK: Was the wound closed before you left Quirindi Hospital?—A. No, it was still open when I went home.

Q. Do you remember this matter you have just described, did you mention that to anybody afterwards?—A. I mentioned it to Dr. Hanlon and the nurse.

Q. After you had been there up to the 9th June were you still sick?—A. Yes

Q. Whose suggestion was it that you come home?—A. Dr. O'Hanlon's.

40 Q. Did anybody come home with you?—A. A nurse came home with me.

Q. What was her name?—A. Sister Sly.

Q. How long did Sister Sly stay at your home?—A. About six weeks, I think.

Q. And during the time she was there, did you have any of these tetany sensations and spasms?—A. Yes.

Q. How were they as regards those you have described when you were in Quirindi Hospital, were they of the same type or worse, or better or what?—A. They were gradually getting worse.

Q. Did you still have the injections?—A. Yes.

50 Q. Who gave you those injections?—A. Dr. O'Hanlon.

Q. I am talking about when you came home?—A. Dr. O'Hanlon continued for some time.

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Q. And how often used he give them to you ?—A. Every morning.

Q. While you were in the Quirindi Hospital were you able to eat anything at all that was given to you ?—A. Very little, no hard foods.

Q. Why was that ?—A. I could not eat a hard food, I could not swallow a hard food.

Q. When did you first notice this difficulty in swallowing ?—A. It was while I was in hospital.

Q. In Quirindi or did you have difficulty in Sydney ?—A. I had not had anything hard in Sydney.

Q. After you came back and went into Quirindi you noticed this 10
difficulty in swallowing ?—A. Yes.

Q. You told us that Sister Sly continued on with you for five weeks ?
—A. Between five and six weeks.

Q. Did your condition still remain the same during the whole period Sister Sly was there, the difficulty in swallowing ?—A. Yes.

Q. And did you have this inflammation you have described ?—
A. Yes.

Q. And was the wound still open ?—A. It was open for about a month after Sister Sly came and then Dr. O'Hanlon said it had to be allowed to close. 20

Q. Up until the time it was closed had it been discharging ?—A. Yes.

Q. And did you still have this swelling ?—A. Yes, the swelling became worse after it closed.

Q. For how long did Dr. O'Hanlon give you the injections in the veins in the arms ?—A. I should say about nine weeks.

Q. After you came back from the hospital ?—A. No.

Q. How long after you came back from hospital ?—A. About a month I suppose.

Q. Did they cease ?—A. Yes, the vein dried up and there was no vein to inject the calcium in. 30

Q. You remember on one occasion Dr. O'Hanlon making an attempt to give them to you ?—A. Yes, he did, on the last occasion he tried to give it to me he made about 20 attempts to give them to me in the vein.

Q. Of both arms ?—A. All my limbs.

Q. And from that time did he cease giving you the intravenous injections ?—A. Yes.

Q. Was there anything substituted for it ?—A. Paroidin.

Q. Did he tell you as to who told him to give you Paroidin ?—A. He said Dr. Bell said to give it to me.

Q. How long did you take this Paroidin ?—A. It would be more than 40
12 months I think.

Q. How often used you take it ?—A. It varied, sometimes every day and sometimes I would miss a day and sometimes several days.

Q. Do you remember going back to the hospital at Quirindi on 3rd September 1938 ?—A. Yes.

Q. And you were there until the 6th September 1938 ?—A. Yes.

Q. How was it you came to be taken up there then ?—A. Dr. O'Hanlon took me up in a tetany turn.

Q. You had a tetany spasm at your home ?—A. Yes.

Q. And were you taken straight away from your home ?—A. Yes. 50

Q. By Dr. O'Hanlon into the hospital ?—A. Yes.

Q. You might describe that turn you had when you were taken by Dr. O'Hanlon?—A. I was unconscious when I was taken by Dr. O'Hanlon, I don't remember it. I found myself in hospital the next day.

Q. The remaining days you were in hospital did you have any more turns?—A. Yes, they continued to be worse after I came home.

Q. I am talking about in the hospital?—A. No.

10 Q. How did you come to leave hospital after you had been there a few days?—A. I think Dr. O'Hanlon and my husband decided that I should come home, that there was nothing that could be done for me in hospital. Dr. O'Hanlon suggested that I go home as there was nothing more could be done for me at hospital.

Q. At that time Sister Sly had gone?—A. Yes.

Q. Did anyone come there to take her place in the home?—A. Yes, my sister was there.

Q. What was her name?—A. Miss Maher.

Q. How long did she stay there?—A. She was with me for quite a time.

Q. Would it be into the next year?—A. Yes.

20 Q. Was she with you when you were taken to the hospital by Dr. O'Hanlon in one of these spasms?—A. Yes.

Q. When you came out of the hospital on the second occasion were any intravenous injections given to you at any time?—A. No.

Q. Was anything administered to you?—A. Paroidin.

Q. Was it a liquid or a tablet?—A. It was a liquid, it had to be injected into the skin.

Q. Who did that?—A. My husband used to do that and my sister.

Q. How was it your husband was doing it, was there any conversation with Dr. O'Hanlon about it?—A. Yes, Dr. O'Hanlon taught him how to do it.

30 Q. And this had to be given, you say, nearly every day?—A. Yes.

Q. And it was saving expense in not having to have Dr. O'Hanlon?—A. Yes.

Q. From September 1938 when you came out of the hospital I want you to tell us, for the next part, for the next 12 months what was your condition?—A. I gradually grew worse in the next 12 months, my head was terribly swollen, I had no neck, my head and shoulders were all one, they all ran into one.

Q. And did you have any of these spasms?—A. Yes.

Q. How often?—A. They were quite often, sometimes every day.

40 Q. Was Dr. O'Hanlon called in in May after you left the hospital in September?—A. I saw him occasionally, but he said he could not do anything and only to call for him if it were necessary.

Q. Your sister, you say, stayed on with you until 1939. Do you remember what month she left?—A. No.

Q. After she left did somebody else come there?—A. Yes, Mrs. Fisher.

Q. She was a lady who used to come at what time?—A. Somewhere about 10 o'clock in the morning.

Q. And stay until when?—A. Until after 6.

50 Q. During this time were you up and about or what were your general movements?—A. Sometimes I could get up and walk about, but mostly I was in bed.

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Q. And the food, what food could you eat?—A. My food was just bovril and very thin arrowroot.

Q. Did you have any solid food at all?—A. No solid food at all.

Q. And for how long was that condition that you have described, your neck being swollen, for how long was that in the way that you have described, your shoulders and your head all seemed to meet, for how long do you say that condition was apparent?—A. For the last three months, it was very bad.

Q. You mean the three months prior to something happening that you fix as what date?—A. 2nd October. 10

Q. Apart from the swelling, did you notice anything else about your mouth?—A. The pus was terrible in my mouth, I could not drink milk.

Q. Used you have to expectorate?—A. I used to gargle my throat.

Q. And what was it?—A. It was pus.

Q. During that three months that you were gargling and spitting out the pus, did your neck still maintain the same position?—A. Yes.

Q. Do you remember your birthday?—A. Yes.

Q. What date was your birthday?—A. The 2nd October 1939.

Q. How were you on that day, had you had any spasms?—A. I was very ill on that day. 20

Q. Just detail what you remember of your condition?—A. I had lost consciousness several times during the day, and I was constantly drawn up for two days, my limbs had not been straight for two days.

Q. For two days prior to the 2nd October?—A. Yes, prior to the 2nd October.

Q. Do you remember what day the 2nd October was?—A. It was Monday.

Q. You are speaking about the Sunday as well?—A. The Sunday and Monday.

Q. Do you remember whether your husband went to his work on 30 Monday, 2nd October?—A. Yes, he went.

Q. What time of the day did something happen?—A. He came home around about 3 o'clock.

Q. He went to work in the morning at what time?—A. 9 o'clock.

Q. Was Mrs. Fisher there?—A. No, Mrs. Fisher was not there when he went to work.

Q. Was she there that day?—A. No, she was not there that day.

Q. You remember about your husband, he came home you say about 3 o'clock?—A. Yes.

Q. When he came home what was your condition?—A. I was very 40 very ill.

Q. Were you in bed?—A. Yes, I had been in bed for some weeks.

Q. Now just tell us what happened, what you noticed. Describe it in your own way?—A. I had lost consciousness several times during the morning, I know, partly conscious, and my husband came home and I regained consciousness just a little and started to cough and I was drawn right up into a ball, I started to cough and I had something in my mouth, I swallowed it.

Q. The next day did you notice anything about yourself?—A. Yes, I had a pain the next day like something was moving around here (indicating 50 upper abdomen).

Q. For how many days did this go on for, if at all?—A. It was the next day.

Q. How often did you feel the pain that you felt somewhere in your abdominal region ?—A. Occasionally, every now and again and sometimes worse than others.

Q. For how long ?—A. The next day.

Q. Did you do anything, did you take anything ?—A. Yes, they gave me purgatives.

Q. Who gave it to you ?—A. Mrs. Fisher gave me the purgatives.

Q. What did you take and for how long did you take those purgatives ?—A. On the second day I took the first one.

10 Q. What did you take ?—A. Castor oil.

Q. Do you remember Thursday morning ?—A. Yes.

Q. In your bedroom did you have any accommodation there for an emergency ?—A. Yes, I had a commode in the bedroom.

Q. You might tell us on the Thursday morning what happened ?—A. I had occasion to use the commode.

Q. What time was that ?—A. Around about 7 o'clock.

Q. After you used the commode, what did you do ?—A. I went back to bed for a while.

Q. How long were you in bed ?—A. About an hour.

20 Q. What did you do then ?—A. I got up then to empty the pan.

Q. About what time was that ?—A. Around about 8 o'clock I think.

Q. Just describe what you did and what you saw ?—A. I saw in the pan an object.

Q. You might describe it, what was the colour of it ?—A. It was a grey piece of rubber as I thought.

Q. About how long ?—A. About two inches long.

Q. And would you mind having a look at these three pieces of rubber and tell me which one it was like in size (three pieces of rubber tubing handed to witness). I do not mean the length, I mean in circumference ?

30 —A. That one (indicating piece of rubber tubing).

Q. And the length of it was what ?—A. About that long (indicating about two inches) and it was torn at the end, it had a swollen appearance.

(Piece of rubber tubing cut to length indicated by witness and of the circumference indicated, tendered and marked Exhibit B.)

Q. You said something about one end of this particular thing ?—A. One end was torn and there was a slight cut in it, in the cut there was a swab with a piece of wire to it, I think it was wire, it was like wire.

Q. Did you do anything with that ?—A. Yes, I took it out and I squeezed where the swab was and the pus ran down my fingers.

40 Q. What colour was it ?—A. It was green.

His HONOR : Did you remove the swab ?—A. No, I did not remove the swab.

Mr. HARDWICK : You squeezed it, and a green-looking substance that you describe as pus ran down your finger ?—A. Yes.

Q. Where were you when you did this ?—A. I was near the toilet.

Q. You say you had a commode in your bedroom. You have a sewerage system up at Quirindi, have you ?—A. Yes.

Q. How far away is the lavatory pan from your room ?—A. About two yards from the bedroom door.

50 Q. And across where ?—A. Just across the verandah.

Q. And which verandah is it ?—A. The back verandah.

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tion,
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Q. You squeezed this in the lavatory did you?—A. Yes.

Q. Which hand did you have it in?—A. In the left hand.

Q. And what was in your right hand?—A. The pan.

Q. And what did you do with the contents of the pan?—A. I put it in the toilet and I put my hand up to pull the chain.

Q. Which hand?—A. The one I had the piece of tube in, and I heard someone coming, and as I heard the step it dropped in the pan.

Q. When the water ran away did you look in the toilet?—A. Yes.

Q. And was there anything there?—A. No, it was gone.

Q. Did you communicate those facts to your husband?—A. Yes. 10

Q. Where was your husband at the time of this event you have just described, was he in the house or out of the house?—A. I cannot say.

Q. You said you heard a noise, where was the noise?—A. Someone coming up the back steps.

Q. Did you know who it was?—A. I thought it was the tradesman coming.

Q. Who did it turn out to be?—A. My husband.

Q. Did you have a conversation with your husband after this happening?—A. Yes.

Q. And then did Dr. O'Hanlon come down?—A. Yes. 20

Q. When did Dr. O'Hanlon come down?—A. The next night, the Friday night.

Q. That is the 6th October?—A. Yes.

Q. After you lost this thing that you had in your hand what did you do?—A. I drew a sketch of what I had seen.

Q. And who did you give it to?—A. I gave it to my husband.

Q. When Dr. O'Hanlon came to see you did he have anything with him?—A. No.

Q. Did he say anything about having seen anything?—A. Not when he came. 30

Q. At any time while he was there, did he have any conversation with you? Did he say anything, do you remember the sketch you told us about—did Dr. O'Hanlon say anything about the sketch?—A. Dr. O'Hanlon came to see me—you are talking about the time the drain left my throat?

Q. Yes, you drew a sketch and gave it to your husband, and Dr. O'Hanlon came down to see you?—A. My husband gave the sketch to Dr. O'Hanlon.

Q. You did not see your husband give the sketch to Dr. O'Hanlon? When Dr. O'Hanlon came down was your husband there?—A. Yes.

Q. What conversation took place?—A. My husband asked how the anæsthetic was given, he knew that I had had oxygen. 40

His HONOR: And what happened then, who said what?—Dr. O'Hanlon said that he wanted to know what he meant by asking such a question and my husband told him about what I had seen and he said it was a piece of drainage tube.

Mr. HARDWICK: Who said that?—A. Dr. O'Hanlon.

Q. Up to that date had you ever seen a drainage tube?—A. No.

Q. Did you know what the name of it was until Dr. O'Hanlon spoke?—A. No.

Q. After Dr. O'Hanlon had had this conversation with you were you taken to Quirindi Hospital?—A. No, I still remained at home. 50

Q. Was there an X-ray taken?—A. Yes.

Q. Where was that taken?—A. Up at the hospital.

Q. At whose suggestion were you taken to be X-rayed?—
A. Dr. O'Hanlon's.

Q. After this event you have told us about, this coughing, in the front did anything still come away in your mouth?—A. Yes, pus.

Q. For how long did this pus come away?—A. Some time after I came back to St. Luke's Hospital I was still gargling my throat.

Q. You described the condition of the swelling of your face and your
10 head out to your shoulders, did that decrease at all?—A. Yes.

His HONOR: You said this was still coming away, when you went back to St. Luke's Hospital did the swelling gradually decrease?—A. Yes.

Mr. HARDWICK: When do you say that you were back to normal?
—A. About a month.

Q. Do you say you were pretty well back to normal in a month?—

A. Not exactly, seven weeks after 2nd December, I think.

Q. After this X-ray that you have told us about that was taken on the suggestion of Dr. O'Hanlon, was Dr. O'Hanlon away for some little time?—A. Yes.

20 (Mr. Hardwick called for a letter written by Dr. O'Hanlon to Defendant after the 6th October 1939 with the enclosure—produced.)

Mr. MONAHAN: You are about to be shown, I think, the sketch that you prepared—you can assume you are for the purpose of my question. The question I want to ask you is this, was the sketch that you prepared intended to be an exact representation as to size, shape and length of what you saw or not?—A. No.

Q. What was it intended to be?—A. To give my husband some idea of what I had seen.

Q. It was not intended to be in any way drawn to scale?—A. No.

30 Q. Was it bigger or smaller to what you saw?—A. I have no idea what the sketch is like.

Q. That is what I want to ask you, the object that you had taken out of the commode and sketched for your husband, was it bigger or smaller than shown in the sketch. (No answer.)

His HONOR: Can you remember that, whether your drawing was bigger or smaller?—A. It was about the same size, as near as I could sketch.

Q. Your husband had not gone to work at that time, had he, between 7 and 8?—A. No.

40 Q. He was about the premises somewhere?—A. Yes.

(Letter dated 7th October 1939 written by Dr. O'Hanlon to Dr. Bell and enclosed sketch tendered—Objected to—m.f.i. 1.)

(Copy letter written by Defendant dated 29th June 1938 to Plaintiff's husband called for; Mr. Monahan stated that he had no such copy in his possession.)

(Letter written by Plaintiff's husband to Defendant of which letter of 29th June 1938 is a reply, called for—produced.)

(Letter written by Plaintiff to Defendant of which letter of 27th May 1939 is a reply called for; not produced.)

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(Any letters written by the Defendant to the Plaintiff between 14th April 1938 and the 2nd October 1939 called for—none produced.)

(Original letter dated 2nd May 1938 by Plaintiff's husband to Defendant ; copy letter dated 29th June 1938 written by Defendant to Plaintiff's husband ; original letter dated 27th May 1939 written by Defendant to Plaintiff ; original letter dated 11th October 1939 from Plaintiff to Defendant ; copy letter dated 15th October 1939 from Defendant to Plaintiff tendered and marked Exhibit C.)

Mr. HARDWICK : Who is Chiquetta Hocking ?—A. That is my 10
nickname.

Q. Is that your writing (letter shown to witness) ?—A. Yes, I think that is my writing.

Q. Is that your drawing (sketch shown to witness) ?—A. It is similar to my drawing.

Q. Is that what you drew according to your recollection which you gave to your husband ?—A. Yes.

(Sketch tendered and marked Exhibit D.)

Q. Do you remember writing a letter to Dr. Bell and getting one from him and then you came down to Sydney with your husband to St. Luke's 20
Hospital ?—A. Yes.

Q. Do you remember what date that was that you came to St. Luke's Hospital in October 1939 ?—A. No, I don't remember.

Q. How did you go from the station to the hospital ?—A. In an ambulance.

Q. Did you go down in a sleeping car ?—A. Yes.

Q. And your husband with you ?—A. Yes.

Q. Did you go into a single room at St. Luke's ?—A. Yes.

Q. And do you remember whether you saw Dr. Bell the day you arrived ?—A. Yes, I did. 30

Q. What did Dr. Bell say to you when he came into the room and saw you at St. Luke's on this occasion ?—A. He said I was a good artist.

Q. Did you understand what he meant at that time ?—A. No, I thought he meant I was an actress.

Q. What did he say then ?—A. He said Dr. O'Hanlon sent him the sketch and that it was very good.

Q. Did he say anything else about the case ?—A. No.

Q. About your particular case ?—A. No.

His HONOR : Did he ask you how you were and anything about yourself ?—A. No, he was in a hurry, he didn't stay. 40

Mr. HARDWICK : Did he say anything about his concern or otherwise about your case ?—A. No.

Q. Did anybody else attend you while you were at St. Luke's Hospital ?—A. Dr. Ritchie.

Q. Who else ?—A. Dr. Hansman and Dr. Marsh.

Q. Did you yourself have any talk during the time you were in St. Luke's Hospital with Dr. Bell about your own particular trouble ?—A. No, I don't remember.

Q. Do you remember a vein being discussed ?—A. Dr. Bell told me he had had trouble with a vein on the right side of my face and my reply 50
was that my trouble was on the left.

- Q. When was this, the first or second day or when?—A. Some time during the time I was in St. Luke's.
- Q. How long did you stay in St. Luke's on this occasion?—A. Eight days.
- Q. And tell me, did you have any spasms?—A. No.
- Q. And how was the swelling?—A. It gradually disappeared.
- Q. There was no discharge coming away while you were in St. Luke's?—A. Not very much.
- Q. How was your throat when you came in, in appearance?—A. It was swollen.
- Q. Did Dr. Bell have any talk with you about that?—A. No, he did not say anything about it.
- Q. Where was the discharge coming from?—A. In my mouth.
- Q. Where did you go when you left hospital?—A. I went to Manly.
- Q. And then you went home?—A. Yes.
- Q. And from that time onwards did you gradually improve?—A. Yes.
- Q. How was it you came to go to Manly, was it on your own initiative, or a holiday suggested by anybody?—A. A holiday suggested by my husband.
- Q. Do you remember coming down to Sydney at Easter, 1940, that is some months after, with your husband?—A. Yes.
- Q. And did you go along with your husband to see Dr. Bell?—A. Yes.
- Q. Do you remember any conversation about your particular sickness with Dr. Bell?—A. Dr. Bell said he did not leave a drain in my throat.
- Q. What did you say?—A. I said he did.
- Q. Did your husband have anything to say?—A. My husband spoke next.
- Q. You remember some reference to a mark anywhere?—A. My husband asked what about the scar on my throat, and Dr. Bell said that was due to a knot.
- Q. Do you remember any reference to this tetany that you had by Dr. Bell?—A. Dr. Bell said it would not cause a tetany, the knot on the one side of my throat. I said that it was the inflammation that caused the tetany, the swelling on both sides of my face.
- Q. And what did he say to that?—A. I don't remember.
- Q. Did you make any reference to the happening at the hospital in course of your conversation?—A. I told him that I knew he had left a drain there, that I remembered him removing it, I remembered it breaking.
- Q. What did he say to that?—A. He said I ought to see my solicitor.
- Q. Do you remember telling His Honor and the jury that when you were in the Quirindi Hospital on the first occasion you felt something in your throat and you described that you had some slight bleeding. Did you do anything to your throat when you felt that particular thing?—A. Only swabbed it with cotton wool.
- Q. Did you do anything to the outside at all?—A. Not on that occasion.
- Q. After it healed up did you do anything. Did you ever feel this thing afterwards?—A. Yes, I had hot fomentations to my neck.
- Q. You remember speaking about the thing you felt in hospital when you turned your neck?—A. Yes.

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Q. Other than that occasion did you ever notice anything in your throat?—A. Yes.

Q. For how long?—A. Right up until it was removed about 12 months later.

Q. Did you ever do anything after it was healed up, did you ever do anything to your throat with your own hands?—A. No.

Q. And have you noticed any particular mark or depression on your throat on the left hand side?—A. Yes.

Q. Point it out where you say it is?—A. It is there somewhere (indicating).

Q. And do you say that that is where you felt the pain that you describe?—A. Yes.

10

Cross-Examined.

Mr. MONAHAN : That is the opposite side to the side you say the tube was left in?—A. No.

Q. I thought you said the tube was in the other side?—A. It was the right side that Dr. Bell removed the tube.

Q. What side of your throat do you say the tube was in?—A. The left side.

Q. When did you first make up your mind that you were going to bring an action against Dr. Bell?—A. About six months after I suppose.

Q. You say whatever date you think right, when was it?—A. I cannot say, I don't know the date.

Q. Well, do your best, give the jury an idea when you decided you were going to bring an action against Dr. Bell, when did that idea first occur to you?—A. It was the Easter I came to see Dr. Bell.

20

His HONOR : That would be Easter last year?—A. 1940.

Mr. MONAHAN : You did not in fact take any proceedings until this year did you?—A. I don't know.

Q. You don't know that you commenced your action in January of this year, you don't know that?—A. No.

Q. Did you give any instructions in January of this year?—A. Yes.

Q. You have seen the letter you wrote to Dr. Bell saying that you did not regard him in any way to blame, do you remember writing that letter?—A. Yes, I wrote to Dr. Bell.

Q. Do you remember whether or not you wrote a letter to the doctor saying that you did not regard him as to blame?—A. I wrote to Dr. Bell but don't remember what I said.

Q. You cannot have forgotten that, have you, that when you wrote to him whether you attributed any blame to him. Did you write in that strain, that you did not blame him for this bit of tubing? (No answer.)

40

His HONOR : Do you remember writing that?—A. I remember writing to Dr. Bell, but I was still ill, but what I said I cannot say.

Mr. MONAHAN : When do you fix that?—A. In October some time.

Q. After you came to Sydney?—A. No, before I came to Sydney.

Q. Do you remember what you said when you wrote to him then?—A. No.

Q. Do you remember saying this : " Doctor, please do not think that I blame you or anybody at the hospital." Did you write that ?—A. I do not remember it.

Q. When you did see the doctor, you have told us in 1940, when he told you to go to a solicitor or something, you then asked him what the B.M.A. was going to do about it, didn't you ?—A. No, I did not.

Q. Tell us what you did say to him then in the last interview you had with him, what did you say to him ?—A. I said he left the drain in my throat.

10 Q. What else did you say. You told him in the letter six months before that that you did not blame him or anyone at the hospital. What did you say when you saw him six months later ?—A. We were talking about the drain in my throat and he said it was the knot that caused the large hole in my tonsil.

Q. You did mention a solicitor, how did the mention of a solicitor come up ? How did it come to be made, what did you say that led up to that ? (No answer.)

20 His HONOR : Do you remember what was said before you say the defendant said : " You ought to see a solicitor " ?—A. It was when I said I knew he had left the drain there, and he said " Damn " and I said " Oh " and I knew that he had left the piece there then.

Mr. MONAHAN : What was the next thing that was said. You told him that he had said " Damn " and you said " Oh " and you knew he had left a bit of drain in ?—A. That I had better see a solicitor.

Q. You have told the jury that on that occasion that he said " Damn " that he picked something ?—A. Yes.

Q. Tell the jury as well as you can what was it, as far as you could see ?—A. A piece of dark looking rubber it appeared to be in his fingers.

30 Q. How long is the piece he appeared to pick out ?—A. Not very long.

Q. How long, half an inch or more ?—A. It was only a small piece I could see in his fingers.

His HONOR : That is barely an inch as indicated by you ?—A. Yes.

Mr. MONAHAN : Taking it in comparison with the piece you say came out afterwards, how would it compare with that in size, was it one-eighth as long, one-quarter as long, one-half as long or what ?—A. I did not see the length of the piece, but the piece I could see through his fingers was about half an inch, I suppose.

Q. And you say it had the appearance of dark rubber ?—A. Yes.

40 Q. And was it in diameter of about the same size that subsequently came out into the commode ?—A. The piece that I saw later was larger.

Q. In diameter ?—Yes, it had a puffed appearance.

Q. Was the puffed appearance all along it or only where you have told us this swab was pushed into it ?—A. It was all the rubber.

His HONOR : You say the piece the doctor picked away a few days after the operation, so far as you could see it was only sufficient for him to just hold in his fingers and leave about half an inch protruding ?—A. Yes.

50 Q. And it appeared to be smaller in diameter to the piece you say you subsequently saw in October the following year ?—A. Yes, just slightly smaller.

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Mr. MONAHAN: From your observation you would not think it was part of the same piece that you got out later on, it was a different sized rubber, was it?—A. Yes.

Q. You said prior to 1938 you had no illnesses at all of any sort?—
A. No.

Q. Just think, is that true?—A. It is very early, not very long before that.

Q. I put it to you, Madam, in August 1937, about four months before this, weren't you having medical attention and treatment from Dr. O'Hanlon?—A. Yes, that is what I called my first illness. 10

Q. You started off your evidence by saying that prior to 1938 you had had no illnesses, that is not right, is it?—A. Just before.

Q. What you said before was prior to 1938 you had had no illness, and then you went on to give evidence just after that of coming down to Sydney and seeing Dr. Ritchie?—A. Yes.

Q. What I am putting to you is that you had had an illness which had had nothing whatever to do with your throat before this, that you were consulting Dr. O'Hanlon in August 1937 for a rash on your back?—A. On the back of my neck.

Q. And, as a matter of fact, you were sent down to Sydney in 1937 20 to consult a specialist weren't you and you were treated in Sydney by a skin specialist?—A. For the rash on the back of my neck.

Q. Had you forgotten about that?—A. No.

Q. When you said you had no prior illnesses. (Objected to.)

Q. Weren't you seen again after returning from Sydney after being treated by Dr. Flynn, didn't you again call in Dr. O'Hanlon after you got home to Quirindi in October 1937?—A. Dr. O'Hanlon came to see me.

Q. I suppose he came because he was called by either you or your husband?—A. No.

Q. Do you mean he came in without being asked?—A. He came to see 30 how I was getting on.

Q. Were you in Quirindi Hospital in October 1937 for neurasthenia?—A. Yes.

Q. Your nerves were in a very bad shape?—A. They did not know what was exactly causing the rash on the back of my neck.

Q. Your nerves were in a bad state?—A. No, my nerves were good.

Q. What were you in the hospital for?—A. I was in under observation for the rash on the back of my neck.

Q. As a matter of fact, you were in hospital under observation for a month for neurasthenia?—A. No. 40

Q. I put it to you, from the 19th October 1937 to 15th November that you were in Quirindi Hospital for neurasthenia?—A. I was given no nerve treatment of any kind.

Q. What did you understand you were in the Quirindi Hospital for towards the end of 1937?—A. I was not told. I had no idea, only just for the rash on the back of my neck.

Q. After you had come home from seeing Dr. Flynn you went into the hospital didn't you for nearly a month?—A. Yes.

Q. What was that for? Were you in good health?—A. I was not really ill. 50

Q. And weren't you treated in November after you got home by Dr. O'Hanlon for troubles in connection with your heart—your heart was giving you trouble, isn't that so?—A. Yes.

Q. So I may take it that towards the end of 1937 you were in very bad shape weren't you so far as your health was concerned, breaking out in rashes, troubled with neurasthenia and your heart causing you trouble, that was the position wasn't it to the end of 1937 ?—A. No, I was just suffering from my heart. I had a bad heart, but I had no sign of any skin disease.

Q. You were sent down by Dr. O'Hanlon to consult a general physician, not a surgeon, weren't you ?—A. Yes.

Q. You were sent to see Dr. Ritchie ?—A. Yes.

10 Q. And Dr. Ritchie told you that the trouble was one that a surgeon would be required to deal with ?—A. Yes.

Q. That it required an operation, that it was nothing a physician could heal with medicine ?—A. Yes.

Q. Now, I want you to come to this operation. You have given us the date, 15th March 1938, you remember that ?—A. Yes.

Q. And the operation was in the morning fairly early ?—A. Yes.

Q. When did you regain consciousness ?—A. Round about lunch time.

20 Q. After you got over the effects of the anæsthetics, on the evening of that day were you in full possession of your faculties, was your brain clear ?—A. Yes.

Q. And you were conscious of the fact that an operation had been performed on your throat ?—A. Yes.

Q. And did you put your hand up at all to feel anything protruding from the wound ?—A. Not then.

Q. This was the next day, for example ?—A. No.

Q. When did it first become present to your mind that a piece of tube for drainage purposes had been inserted in the wound ?—A. When the nurses were dressing my neck.

30 Q. The same day as the operation ?—A. No.

Q. The next day were you told by the nurse when she was dressing it ?—A. No.

Q. When ?—A. It may have been several days afterwards.

Q. What does that mean, what does "several" mean, how many ?—A. Three days.

Q. Were you not conscious of the fact that a pretty wide safety pin had been stuck through the tube and fastened so as to prevent the tube from moving ?—A. No.

40 Q. And you say about three days after the operation you were told by a nurse that a tube had been inserted ?—A. No, the nurse did not tell me that the tube was inserted, but I knew from the treatment I was receiving that there was a tube there.

Q. You say on the third day you were conscious and you knew there was a tube in your wound ?—A. Yes, I knew there was a tube.

Q. Are you positive about that ?—A. Yes.

Q. And you said this : That on the fifth day this incident occurred ?—A. Yes.

Q. Now, madam, I put it to you that the tube was removed on the second day after the operation ? (No answer.)

50 (St. Luke's Hospital records called for by Mr. Monahan produced from the custody of the Court.)

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Q. Do you remember the name of the special nurse you had, was it a Sister Will?—A. No, I don't know the name.

Q. I put it to you that on the 17th March, two days after the operation, Dr. Bell was there, the tube was removed and three sutures—less discharge, condition good. And then there is some reference to the prescription that was given, isn't that what happened, that on the 17th March two days after the operation the tube was removed in the Hospital. Do you swear on your oath that that is not so, that it was there for five days?—A. I thought it was round about five days.

(Relevant portion of hospital records, m.f.i. 2.)

10

Q. Just think again, on the second day after the operation, early in the morning Dr. Bell came and removed the tube. (No answer.)

His HONOR: Could it have been the second day?—A. It was longer.

Q. You think that first of all you became aware of the presence of the tube and you think it was one or two days after that that it was taken out?—A. Yes, it is very hard to remember.

(Luncheon Adjournment.)

At 2 p.m.

Mr. MONAHAN: Did you make the business arrangements with Dr. Bell before the operation?—A. No. 20

Q. Did your husband?—A. Yes.

Q. What fee was to be paid?—A. Dr. Bell said fifty guineas.

Q. Of course, it has never been paid, only half of it?—A. Half of it.

Q. I gather from you that this tube when you became conscious of it in your throat was on the right-hand side of your neck?—A. Yes.

Q. Did it remain in that position after that occasion when you saw Dr. Bell wrench some smaller piece of tube out?—A. No.

Q. Where did it go then?—A. I think the drain was removed then.

Q. You were never after that conscious that there was anything in your throat or neck until this incident occurred something over a year later, is that it?—A. Yes. 30

Q. Never had any idea there was a piece of tube two inches long with a bit of sponge with wire in it embedded in your neck for a period of 18 months?—A. No. (The word "embedded" objected to.)

Q. In your neck. You had no idea, you had no feeling, you never felt this wire or those things in your neck?—A. Yes, I felt the wire in my neck, I felt something sticking in my neck.

Q. When was that?—A. I was in Quirindi Hospital about a fortnight.

Q. When do you place it that you felt something sticking in your neck, did you complain at all about it to your medical adviser?—A. Yes. 40

Q. When?—A. The next morning.

Q. When was it you felt it in your neck? You told us something was pulled out by Dr. Bell five days after the operation; when was the next time you were conscious there was any foreign body in your neck? A.—

Mr. HARDWICK: How long after you had been in Quirindi?

Mr. MONAHAN: How long after this piece was pulled out?—A. Well I knew there was something the matter with my throat but I had no idea what it was.

Q. Were you at any stage between that day, five days after the operation when Dr. Bell pulled something out and said "Damn" and I think you said "Oh"; from that time until the time that this incident occurred in October 1939 were you at any time conscious that there was a foreign body in your neck?—A. No. I would not say that I was.

Q. So that the last occasion when you were conscious there was anything in there, it was on the right side of your neck when he pulled it out?—A. No, the drain was inserted in the right side and I had the trouble in the left. The worst side of my throat was the left.

10 Q. You mean the sorest side?—A. Yes.

Q. The drain you say was put on the right side?—A. Yes.

Q. Did I get you right, when this spasm of coughing which you had in October 1939, it was the tonsil on your left side which was injured by something going against it? Is that what you said?—A. Yes.

Q. And as you put it to the jury this object that had been on the right side in some way travelled across to the left side and came up into your throat cavity against your tonsil and injured your tonsil and came through the wall there?—A. Yes.

20 Q. You told us you were in the Quirindi Hospital on two occasions at any rate after the operation, that is so?—A. Yes.

Q. And I put it to you in June of 1938, that is the time about three months after the operation, the external wound had healed, closed up generally?—A. Four months after the operation.

Q. Four months after the operation the incision or hole, whatever you choose to call it, had healed up, there was no cavity of any sort?—A. No.

30 Q. I put it to you that the last time that Dr. O'Hanlon saw you in 1938 was in October, long after you had been discharged from the Quirindi Hospital. He called and saw you at your home in October about a month after you had been discharged from the Quirindi Hospital?—A. On which occasion?

Q. About a month after you had been discharged from Quirindi Hospital, you were discharged the second time on September 7th? (Objected to.)

Q. You were in Quirindi Hospital on the second occasion, you went in on the 2nd September and left on the 7th of September?—A. —

His HONOR: You say you were at home and had a very bad cramp and woke up in Quirindi Hospital?—A. Yes.

40 Mr. MONAHAN: About four days you were in on that occasion? —A. Yes.

Q. How long on that occasion of September 7th is that, you need not trouble to the exact date?—A. Yes.

Q. I am putting it to you that the next time you saw Dr. O'Hanlon was really more than a month after that?—A. —

His HONOR: Would that be so?—A. I think I saw Dr. O'Hanlon more often than that, I think I saw him more than a month after.

Q. You saw him sooner than that?—A. Yes he came to see how I was.

50 Mr. MONAHAN: When was the last time you saw him in 1938 in October, I suggest to you October 10th and after that, you did not

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see him any more, is that right?—A. I seen him, yes I seen Dr. O'Hanlon after that.

His HONOR: You did see him after that in 1938?—A. Yes I think so.

Q. You went in for four days at the beginning of September?—A. Yes.

Q. And you say you saw Dr. O'Hanlon within the month following when you came out, that would be up to October?—A. Yes.

Q. After October did you see Dr. O'Hanlon at all in 1938? Do you remember?—A. Yes I saw him but I could not tell you the dates. 10

Mr. MONAHAN: What I am suggesting to you is you were pretty right at that time between October and the end of the year in 1938. Do you agree with that or disagree with it?—A. No, Dr. O'Hanlon said he could not do anything more for me and not to bother to come in with the extra expense.

Q. And I think the next time you had occasion to consult him was the beginning of February 1939, but that was for some different trouble?—

A. No, I do not think so.

Q. You consulted him for some different trouble?—A. No.

Q. Do you remember whether you saw him about the beginning of 20 February 1939?—A. No I do not remember the date.

Q. I put it to you that during the first three or four months of 1939 you had not any of those particular troubles, those spasms which you say you had before, is that right?—A. —

His HONOR: Is that right, in the first part of 1939 you were free of those spasms?—A. I do not remember the dates really.

Q. Can you remember that for some few months at the beginning of 1939, after that spasm which took you to the hospital—A. Yes, I continued to have spasms right up to the time the drain left my throat.

Mr. MONAHAN: Do you remember in May 1939 you wrote a 30 letter to Dr. Ritchie?—A. Well, I have only written one letter to Dr. Ritchie. I wrote to Dr. Ritchie on one occasion.

Q. I suggest you wrote to him on the 6th May 1939?—A. Yes.

Q. And sent him a fee for some amount?—A. Yes.

Q. Do you remember that that was the only occasion you wrote?—A. It is the only occasion.

Q. Did you say one word to Dr. Ritchie about those spasms you had been having and were talking about here to-day when you wrote to him?—A. No, but I understood from the doctor—

Q. Why didn't you, if you had them. He was the doctor you were 40 sent to consult when you were first sent there?—A. Dr. O'Hanlon was telling him all about the case.

Q. I put it to you at that time you were not consulting Dr. O'Hanlon and had not for some considerable time past, that you had not consulted Dr. O'Hanlon in connection with those spasms for months before you wrote to Dr. Ritchie. He said he could do no more for you and you were having some treatment in your own home and administering it to yourself or your husband was doing it for you—is not that the position for months?—A. Yes.

Q. If you had those spasms, when you were writing down to Dr. Ritchie 50 and sending his fee, why was it you never mentioned them to him?—A. Well I understood Dr. O'Hanlon was telling him all that was necessary.

His HONOR: You understood Dr. O'Hanlon was telling him all that was necessary?—A. Yes.

Q. Did it occur to you to mention it to Dr. Ritchie when you were writing?—A. No, he just wanted the cheque, that is all.

Mr. MONAHAN: All you were worrying about in May 1939 was your voice had not completely come back. The effect of the operation had been to affect your voice?—A. Yes.

Q. That is all you were complaining about?—A. Well that is all I was mentioning in the letter to Dr. Ritchie.

10 Q. Do you remember you wrote this, "Sorry for the delay in sending the fee which you will find enclosed"?—A. Yes.

Q. "But I have been waiting for the return of my voice which you teased me about"?—A. Yes.

Q. "It is much better than when I left St. Luke's. I would not be of any use in the Church Choir yet"?—A. Yes.

Q. And you go on to say this "Although now don't laugh, I had visitors the other night and one gentleman said 'Gosh, you are beautiful' "?—A. Yes.

Q. That is what you were writing to Dr. Ritchie?—A. Yes.

20 Q. "But, doctor, I was not flattered, he had too much cherry brandy"?—A. Dr. Ritchie was always teasing me in hospital every morning.

Q. When did he last see you before you wrote this to him; he had not seen you since you left hospital in April 1938, he had not seen you for over a year when you wrote this?—A. No.

Q. When do you say it was he was always teasing you?—A. When I was in hospital. I could not say "Good morning" to him.

His HONOR: He used to come and see you?—A. Yes.

Mr. MONAHAN: That was after the operation?—A. Yes.

30 Q. How soon after the operation was it that you saw him? The operation was on the 15th—you used to see him every day after the operation?—A. Yes, as far as I know.

Q. Did you ever say anything to him about what had happened, that Dr. Bell had just picked out a tiny little bit of stuff and threw it in the tray and the nurse had taken it away—why didn't you tell him—you were in a position to, but you never said a word about that to him?—A. No.

Q. From the time you wrote this letter to Dr. Ritchie did you call in Dr. O'Hanlon at any time within the next four months of that?—A. I have no idea of the time.

Q. Did you call him in at all until this incident happened?—A. Yes.

40 Q. Are you prepared to swear positively that between the time this incident happened and when you wrote to Dr. Ritchie with regard to the tube you were ever visited by Dr. O'Hanlon professionally. He may have said "Good day" to you in the street or something of that, but did you ever call him in as a medical adviser during those months?—A. No, I do not think I did.

Q. You have told us that on this morning of 2nd October you had some seizure, I think you said that?—A. Yes.

Q. Was your husband present when the seizure came over you?—A. Yes.

50 Q. What time in the day was it?—A. Well my husband came home, I had not been well all day.

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Q. Was it in the afternoon or evening?—A. It was in the afternoon.

Q. He came home and he was present when the incident occurred?
—A. Yes.

Q. And you say you felt something break, come through the flesh and in against your left tonsil, is that it?—A. Yes.

Q. And that it injured your left tonsil?—A. Yes.

Q. You are putting it this way, this piece of tube came through from somewhere down towards the root of your neck on the left side, came up and went through (interruptions)?—A. It was put in on the right side.

10

Q. You were never conscious of it being there, you had not felt it move from the right side to the left?—A. No, I did not feel it move.

Q. When you say it came out, as far as you saw the position it had come from low down in your neck on the right side, came down to the tonsil on the left side?—A. Yes.

Q. Apparently it would have to travel some inches to do that through your neck?—A. Yes.

Q. And you say it came through and you had not any cavities, I think that is what it was, you had not the faintest idea of what it was that had burst through the flesh of your throat and come out against your tonsil, is that it?—A. Yes. 20

His HONOR: Could you feel it in your mouth?—A. I could feel there was something in my mouth but I could not open my mouth to spit it out to see what it was had come into the mouth, there was pus and all.

Q. You swallowed some water?—A. Yes I coughed and I swallowed.

Q. Could you feel anything in your throat after this, was it sore?
A. It was terribly sore for weeks after.

Mr. MONAHAN: I think you did say that for some considerable time before that the pus used to come into your mouth?—A. Yes.

Q. For how long before this?—A. On different occasions and within 30 quite a short time then—

Q. Could you form any opinion where it came from to get into your mouth?—A. I did not know where it was coming from, somewhere in my throat I think.

Q. You could not feel any aperture?—A. No, I was past feeling.

Q. You thought from your throat somewhere, coming through the flesh into your mouth?—A. I do not know where it was coming from.

Q. Why didn't you draw Dr. O'Hanlon's attention to the fact that pus was coming through some aperture of some sort in the back of your throat into your mouth. I suppose it made you feel sick?—A. Yes. 40

Q. Why didn't you mention to your doctor that that was happening?
—A. —

His HONOR: Did it occur to you to tell Dr. O'Hanlon?—A. Yes. Dr. O'Hanlon said he could not do anything more for me, so it seemed little use calling on him again.

Mr. MONAHAN: I think you said subsequently that Dr. O'Hanlon was called in and that your husband in your presence told him what had occurred on the 2nd, is that so?—A. Yes.

Q. Is not this what he said on that occasion, that is your husband, that you had had as bad a spasm as you had ever experienced?—A. Yes. 50

Q. And that you had a severe attack of coughing?—A. Yes.

Q. Was it true, did you have a severe attack of coughing?—A. I did, I had a severe attack of coughing when all the fluid came into my throat.

Q. That afternoon when this came into your throat did you have a severe attack of coughing?—A. Yes.

Q. And that you felt something come into your throat which you swallowed?—A. Yes.

Q. On this occasion was anything said about your husband forcing your jaws open and you taking water. (Objected to.)

10 Q. Didn't you say that your jaws locked?—A. Yes.

Q. I think you said your husband had to use the end of a spoon to force your jaws open?—A. No, he did not force the jaws open.

Q. What unlocked your jaws?—A. It was some time before they were unlocked, but he put water between my teeth with a spoon.

Q. While your jaws were still locked he was pouring water against the teeth with a spoon?—A. Yes.

Q. Did you open your jaws or not before you swallowed this?—A. No, I didn't.

20 Q. You say you got some water in and you swallowed and this thing went down?—A. Yes, the coughing went on, and I sort of swallowed.

Q. How long was this object in the back of your mouth after it came through against your tonsil before it went down into your stomach?—A. It was only seconds, only a short time.

Q. What I am putting to you is, there was no mention of it having been carried down by you taking some water into your mouth when your husband told the doctor about it on the first occasion, was that mentioned?—A. I could not say, but I think it was.

30 Q. You told us this morning, I think, that the sketch you had drawn represents the approximate size and shape of the thing that went down?—A. No, I did not say it was the same size.

Q. Did I not ask you specifically more than once before my friend showed you the thing and didn't you say it was, it was your recollection of it?—A. No.

Q. It was about the same size? (Argument as to what was said.)

Q. Do you want to alter that now or is that true?—A. I did not draw that sketch from what I had seen.

Q. Have you been talking it over in the lunch hour?—A. No.

Q. Do you want to alter it and say it was bigger or smaller than what you have drawn?—A. It was a little smaller.

40 Q. Is that approximately right the way it is drawn?—A. No, it is larger in diameter than what it seemed.

Q. In point of fact it is more than double the diameter of the tube you have showed this morning, more than twice as big, what you have drawn there?—A. Yes, I suppose it is.

Q. If it is more than twice as big it is not a very accurate sort of description of it?—A. It was just as the article appeared to me. I was not going into the exact size so long as I got the plan on paper.

50 Q. What you have shown there is something in the nature of a miniature mop, two pieces of wire stuck into something. You say that is what it was that you looked at. Two pieces of forked wire like that stuck into this thing there. (Indicated.)?—A. Yes.

Did you feel the ends of the wire scraping as it went down?—A. Yes, I felt the wire in my stomach.

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Q. Did you feel it going down there?—A. I did not feel it in my throat going down, I was only partially conscious on that occasion.

Q. Did you feel it in your stomach after it went down?—A. Yes.

Q. How soon after you swallowed did you begin to feel it there?
—A. The next day I noticed it.

Q. What time, morning or afternoon?—A. Some time during the day.

Q. Is that the best you can say, some time during the day?—A. Yes.

Q. You say you felt nothing while this object was going down your throat. You were conscious that something had gone down because you were watching for it to come out?—A. No, I was not. It was after 10 I had swallowed it.

Q. You were quite conscious that something had gone down that day on the 2nd when you swallowed it?—A. Yes.

Q. Did you then connect it with your operation and think it was this thing that had been worrying you?—A. No I did not know what it was.

Q. Why didn't you send for Dr. O'Hanlon straight away when you realised you had swallowed something of that sort?—A. Dr. O'Hanlon said he could not do any more for me, it was little use in sending for him.

Q. That is the end of the year before he said that?—A. He said it 20 on several occasions.

Q. When was the last time he said it before this happened?—A. He used to see my husband at the shop occasionally.

Q. When was the last time you heard him say he could not do any more for you?—A. I could not say the date, I do not know the date.

Q. On that second when you say your husband put some water into your lips and you took it through and it carried it down, did you tell your husband you had swallowed something?—A. Yes.

Q. Did you describe it to him, the nature of the thing you could feel going down?—A. I did when I was well enough. 30

Q. That afternoon first of all when it happened did you say "I have swallowed something"?—A. Yes.

Q. What did you tell him you thought it was, what was the feeling you had?—A. I did not know what it was.

Q. You told him you thought you had swallowed something?—A. Yes swallowed something but I did not know what.

Q. I ask you again, on the next day, on the 3rd you were conscious it was in your stomach and it was scratching you, the wires were scratching you inside?—A. Yes.

Q. Why didn't you send for the doctor?—A. We did. 40

Q. Not on the 3rd you didn't?—A. No.

Q. You didn't send for him until three days later?—A. It was the second day.

Q. Why didn't you send for him when you felt the thing scratching you internally?—A. For the same reason, he did not seem to be able to do anything for me.

Q. This was a new condition of affairs you found out now, something inside which had gone down your throat and was in your stomach hurting?—A. —

His HONOR: What did it feel like when you felt it the following 50 day?—A. My stomach was sort of—sticking into my insides. Just slight little prickings.

Q. You could feel the pricking inside ?—A. Yes.

Mr. MONAHAN : Could you feel it moving about inside your stomach from side to side ?—A. I could feel it moving while it was there.

Q. You could feel it moving in your stomach ?—A. Yes.

Q. It never occurred to you or your husband to send for the doctor on that day, the 3rd or the 4th or the 5th ? Three days on end, and neither of you thought of sending for the doctor and telling him about those happenings, is that so ?—A. Yes.

10 Q. You told us you took some different kinds of aperient medicine and on the morning of the 5th you tell us now you passed it at seven o'clock in the morning ?—A. Yes.

Q. When you were asked for particulars before you put the time at eight o'clock, didn't you ?—A. No, eight o'clock was when I was emptying the pan.

Q. You were asked for particulars about this thing. "When is it alleged that the plaintiff passed the piece of rubber tube ?" and the answer was "The piece of tube was passed about eight a.m. on Thursday 5th October." (Particular No. 6.) That is what was said about the time ?—

20 A. It was roundabout between seven and eight but I do not know the exact time.

Q. And you have told us it was passed in your bedroom ; now you say about seven in the morning and you went back to bed again ?—A. Yes.

Q. Was your husband occupying the same bedroom ?—A. He might have been sleeping out.

Q. He was or he may be. Was he occupying the same bedroom as you ?—A. Sometimes.

Q. Was he on the night before this ?—A. I don't remember whether he was or not.

30 Q. When this happened at seven o'clock in the morning who else was in the house besides you as far as you knew, was your husband ?—A. That was all, only my husband at the time.

Q. You have a girl of about 13 ?—A. Yes.

Q. Was she at home ?—A. No, she was not home.

Q. There was no one else in the house ?—A. No.

Q. Did you shout out to your husband and tell him something had happened ?—A. I had no voice to call out.

Q. Did you make any attempt to attract his attention ?—A. Yes, but he was not there.

40 Q. You then without looking at what had come away went back to bed for an hour, is that it ?—A. I was too ill.

Q. I am asking you the fact, is it the fact that you went back without looking at what had come away from you, you went back to bed for an hour ?—A. Yes.

Q. Were you conscious that something foreign had passed out ; something unusual ?—A. No, not at the time.

Q. You did not feel any scratchings from those ends of wire sticking out of this thing when it came away ?—A. I had pains in all my muscles though.

50 Q. You were not conscious that something with wire sticking in it was passing away from you ?—A. No.

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Q. And you say about an hour afterwards you got up and proceeded to make an examination of what was in the commode?—A. I did not really start to make an examination.

His HONOR: You did not go for that purpose but when removing it you saw it?—A. Yes, that is it.

Mr. MONAHAN: Was it in the bedroom you noticed this in the commode?—A. No, it was as I was walking out.

Q. That made a pretty big impression on your mind to see a thing like that had come away from you?—A. Yes, it did.

Q. You were just walking out. Did you then endeavour to attract 10 your husband's attention?—A. I was going to my husband, I was going to show it to my husband when I heard steps.

Q. You did not hear the steps until you got to the w.c.?—A. That is only a couple of paces.

Q. You took it out and picked this thing up in your fingers?—A. Yes.

Q. Picked it up from where it was, and I understood from you you squeezed the top of it and this dark coloured or green coloured fluid or pus came out of the piece of gauze or whatever it was rammed into the tube. Is that right?—A. Yes. 20

Q. I gather what you say happened was this, while you were holding that in your left hand you threw the contents of the commode in the pedestal w.c.?—A. Yes.

Q. And you were putting your hand up to pull the chain down and you accidentally dropped it?—A. Yes.

Q. Did you make an effort to retrieve it when you dropped it accidentally?—A. Yes.

Q. And you missed it?—A. Yes.

Q. At what stage was it you heard the sound of a footfall coming. Did you drop it before you heard the footfall or not?—A. Just about the 30 same time.

Q. It was not on account of the footfall you were throwing the stuff into the pedestal? A. Partly.

Q. Which was it, the account you have given us now is you are now throwing this thing in and you dropped it when you heard the footfall, is that right?—A. Well, at the same time as I heard it.

Q. You were inside, I think you said, and you were in the act of pulling the chain when this slipped out of your hands?—A. Yes.

Q. And you then heard a footfall, is that right or not?—A. Well, I heard someone coming and I was going to empty the pan, I was all flurried. 40 I was emptying the pan and as I went to pull the chain the drain slipped out of my fingers and it was washed away, it was impossible for me to regain it.

Q. Did your husband give Dr. O'Hanlon this account of it—whilst you were studying the tube owing to the result of the bowel action, you heard someone approaching and thinking it was a tradesman you emptied the contents of the receptacle into the lavatory?—A. Yes, I suppose he did.

Q. That suggests that while you were looking at it, while it was still in the commode, you heard someone coming and you tipped the lot into the pedestal—that is what your husband told Dr. O'Hanlon in your presence. I suggest to you that is what happened, the thing was still in the receptacle 50 and you were studying it and you heard a footfall and thinking it might be

a tradesman you tipped the whole lot into the pedestal and pulled the chain and away it went?—A. Dr. O'Hanlon and my husband were speaking in the next room and I heard what they were saying.

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His HONOR: Was anything like that said in your presence?—A. I heard them speaking when they were in the next room.

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Q. Was anything said as Mr. Monahan puts to you?—A. Yes, I heard them speaking about it, my husband was in the next room with the doctor.

10 Q. Did you hear your husband say something to the effect of the words Mr. Monahan put to you?—A. Yes, I heard them speaking, I was not in the room.

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Mr. MONAHAN: Were you in bed when Dr. O'Hanlon called and your husband told him about this?—A. Yes.

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Q. It was in the next room but you could hear what was said?—A. Yes.

His HONOR: Were you in view of the tradespeople at that time?—A. No.

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Q. What made you nervous?—A. I was not dressed, I had just got out of bed.

20 Q. You were not in view?—A. Yes, I was in view, it is just at the top of the steps.

Mr. MONAHAN: You were inside the w.c.?—A. No.

Q. Has it a door to it?—A. Yes.

Q. Could you not have closed the door if you heard anyone coming so that you would not be in view?—A. I did not think of it with both hands occupied.

Q. Are you putting that seriously—that you go into the lavatory and use it in that way and you do not bother to close the door?—A. I was not using the lavatory.

30 Q. You were examining something in the lavatory?—A. Just outside the door.

Q. If you were examining it, then you heard the footfall, is that it?—A. Somewhere round about then.

His HONOR: Could you not see who was coming?—A. No, I could not see.

Q. Did you realise the importance of preserving any foreign body that might be there in the pan?—A. No, not just at the time I did not. I did not realise it, but I wanted to show my husband to know what it was.

40 Mr. MONAHAN: It was well in your mind that this was the thing you had swallowed about three nights before?—A. Yes.

Q. And you had the idea then that this is the thing that had been causing you the trouble?—A. Well, naturally.

Q. When the thing was there, instead of putting it on one side, putting it down, you held it in some way and pulled the chain with the same hand at that time instead of putting it down?—A. I had difficulty in standing.

Q. You had walked carrying the commode from your bedroom?—A. It was a very poor walk.

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Q. You had done so. Was there any necessity for you to take the commode to the lavatory if you were in such a shaky condition? Could you not have left it to your husband to empty for you?—A. Yes, I could have.

Q. And you could have left the thing where it was so that he could see without disturbing it at all?—A. I suppose so.

Q. You tell the jury that is a fair sketch of the appearance of it?—A. Yes, that is the appearance.

Q. Is this intended to be a split in the rubber tube that has been widened out by this miniature mop in it?—A. Yes, that is how it was. 10

Q. You refer to it I think, or your husband did to Dr. O'Hanlon, as having the appearance of a marine sponge?—A. It had the appearance of a piece of fine sponge.

Q. The way you have drawn that, the wire at any rate is projecting beyond the rubber part at least half the length of the rubber?—A. Yes.

Q. The whole thing was only three inches over all according to you?—A. The wire protruding out past the rubber.

Q. About one inch out?—A. One piece, the longest piece would be about an inch and the other was a little shorter.

Q. Of course, you have told us the piece of stuff you saw Dr. Bell 20 pinch out and throw away was a different size, a different diameter to this?—A. I did not see it really, it was only a flash.

Q. That is what I said because I asked you the question on purpose. I only asked you about the piece you saw him pick off, was it a different size tube to that?—A. Yes, I know they were different.

Q. And you say that he got hold of it with his thumb and finger?—A. Yes, he had it in his thumb and finger.

Q. I put it to you when Dr. Bell was taking this thing, whatever he got out, was not he using a pair of forceps?—A. No, he had it in his fingers. 30

Q. He was using his bare thumb and finger?—A. Yes, he had it in his thumb and fingers; he could not remove it.

Q. Without putting any gloves on he was putting his thumb and finger into this infected wound of yours and pulled it out?—A. It seemed to be protruding where the doctor got hold of it, it seemed to be he could pull and hold it.

Q. It was protruding and this thing was right inside?—A. Yes.

Q. He only made one attempt to take anything, only got something once?—A. Yes.

Q. He put one hand on your head so as to keep your head rigid and 40 he pulled this out with the other?—A. Yes.

Q. It was quite obvious, if that is the only occasion he took something out, at least three-quarters of it must have been left behind. You tell us what came out afterwards was about two inches long and the bit he took out was about half an inch—more than three parts of it were left behind?—A. Yes, I suppose so.

Q. Did you tell Dr. O'Hanlon that it was the nurse who removed the drainage tube and not the doctor?—A. No.

Q. You never said that?—A. No.

Q. Was the appearance of it in any way bulged out like that by the 50 forcing in of this miniature mop, whatever you call it, I do not know the correct expression, was it extended out at the sides like that?—A. Yes.

His HONOR : Only on one end I gather ?—A. Yes, up near the end, the other end was torn and frayed.

Mr. MONAHAN : It is the torn end which is bulged out ?—A. Yes, that is the end I mean.

Q. The other end is not torn, it is cut exactly straight across ?—A. Yes.

Q. I suppose what you want to convey is this—that the part that was not slit was the part that was furthest in ?—A. Well, I do not know.

Q. You are not suggesting it was in that way with the wire inwards ?

10 You have told us it went straight in on the right side of your throat ?—

A. It went in on the left, from the right to the left.

Q. It came out of the left ?—A. Yes.

Q. It went in the right and came out on your left tonsil eventually, that is what I understood ?—A. Yes.

Q. Your wind pipe, that is near the front edge of your neck ?—A. Yes.

Q. Are you suggesting it went behind that in some way or in front of it to get up to your tonsil ?—A. I have no idea.

Q. This having happened you told us then Dr. O'Hanlon was called in the day after this thing passed ?—A. Yes.

20 Q. And he came I think the next day, when was it he actually called, on the 6th ? He came the day after it happened when he was called in ?—A. Yes.

Q. Now when he came what time of the day was it when he came on the 6th ?—A. Some time in the afternoon or evening.

Q. Did you tell him that this thing had broken into the back of your throat against your tonsil and injured your tonsil ?—A. I did not know where it had broken through at the time.

Q. Did you tell him your tonsil had been injured by it ?—A. No.

30 Q. Why did not you ?—A. Because my throat was also sore and I did not know where—

Q. I understood you to say it had injured your tonsil when it broke through, is that right ? Did you say it injured your tonsil when it broke through ?—A. It did actually come through my tonsil.

Q. Did you tell him that ?—A. I didn't.

Q. Why didn't you tell him that ?—A. I felt it come through—

Q. Why didn't you tell him ?—A. I did not know that it had actually come through my tonsil.

40 Q. I think you said it came through there ?—A. No, at that time I did not know. I knew that it had passed from my throat but I did not know what part of my throat.

Q. I thought you said the immediate effect was to injure your tonsil ?—A. No.

His HONOR : At the moment all you knew was it had come through your throat ?—A. Yes, something had come through.

Mr. MONAHAN : When was it you ascertained it came through the tonsils ?—A. When my tonsil had to be treated in hospital.

Q. On that afternoon that he called on the 6th did not Dr. O'Hanlon make a careful examination of the back of your throat ?—A. No, it was impossible.

50 Q. You mean he made no examination of your throat ?—A. He tried to but I could not open my mouth for him to see into my throat.

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His HONOR: You could not open your mouth?—A. No, the swelling was all in my mouth, I could not open my mouth at all for anyone to see into my throat.

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Mr. MONAHAN: I am putting it to you that on that afternoon he made an examination of your throat and you never told him this, that something had broken through into your throat, that he looked to see especially if there was any signs of anything having come through the flesh—you say he did not?—A. He made an examination but the doctor did not know where the tube had come through.

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Q. Of course you say he was looking to see if there was any signs 10 of any lesion or aperture in the back of your throat that it could have come through?—A. He could not see into my mouth to see where it came through.

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His HONOR: He tried but could not see into your mouth?—
A. Yes, I could not open my mouth.

Mr. MONAHAN: Did he say he could not see into the back of your mouth?—A. Yes.

Q. It was left that he did not know where it had come from? Is that it?—A. Yes.

Q. How long did you remain seriously ill after the visit of the doctor 20 on the 6th October?—A. About four weeks.

Q. Were you in bed the whole time?—A. Almost the whole time.

Q. Were you in bed?—A. Yes.

Q. Too sick to get out of bed?—A. On occasions I got out, but only for a few minutes.

Q. Only for a few minutes, for four weeks after this happened, you were too sick to leave your bed except for a few minutes, is that what happened?—A. Yes.

Q. As a matter of fact, in less than four weeks you were down in Sydney and back in St. Luke's?—A. Just about four weeks. 30

Q. Wasn't it in 20 days that you were down in Sydney and in St. Luke's Hospital? The 26th October I put to you you were back in St. Luke's?—A. No, it was just about a month before I was in St. Luke's Hospital.

His HONOR: What is given in the particulars taken from St. Luke's records would be right?—A. Yes. I thought it was about four weeks.

Mr. MONAHAN: Did you get up from bed to go to St. Luke's or had you been up some time before that?—A. No, I was carried to the train, put in the sleeper and brought to Sydney.

Q. You were quite unable to do anything before you were brought 40 to Sydney?—A. Yes.

His HONOR: And you were taken to St. Luke's in an ambulance from the train?—A. Yes.

Mr. MONAHAN: Is that definitely clear that you were too sick to do anything until the time you left for Sydney, and you went then in an ambulance?—A. Yes.

Q. As a matter of fact on the 11th October weren't you writing letters?—A. I wrote the letter in bed.

Q. You have told us that on the 5th October you made this examination and you found this article. Did you then believe that this was a piece of tubing that had been left in your neck by Dr. Bell?—A. I did not know what it was, I did not know it was a piece of tube.

Q. I thought you said you knew when you picked it out and you looked at it?—A. I could see it was a piece of rubber.

His HONOR : Could you see it was a piece of tube?—A. I could see it was a piece of tube, but I did not know it had been used in my neck.

Mr. MONAHAN : You did not think at the time that there was a
10 piece of tube left there from the operation, did you say that . . . ?

His HONOR : The next day after you saw Dr. O'Hanlon, what did you think then?—A. I knew it had been broken off and left in my neck.

Mr. MONAHAN : You thought Dr. Bell had carelessly left it in your neck?—A. Yes.

His HONOR : That would be on the 6th October?—A. Yes.

Mr. MONAHAN : When you wrote to him on 11th October you were still quite willing to leave yourself under his care?—A. Not actually willing.

Q. You will remember what you wrote was this : "Dear Dr. Bell,
20 Thanks for your letter received some time ago." What letter was that you were alluding to, when had you heard from Dr. Bell before that?—A. I had heard from him before that.

Q. How long before, you see, you start off : "Dear Dr. Bell, Thanks for your letter received some time ago." How long before you wrote this had you had that letter from Dr. Bell?—A. It may have been about 12 months, one letter.

Q. Is that the letter you are alluding to in your letter . . . ?

His HONOR : You are thanking him for a letter received some time ago, what letter was that you were referring to . . . ?

Mr. MONAHAN : You say it may have been 12 months before?
30 —A. Yes.

Q. Is that your idea, that you were writing to thank him for a letter that you had received 12 months before?—A. For a long time I could not use my hands to write a letter.

Q. You wrote to Dr. Ritchie quite an amusing letter in May, it was not a failure then, was it?—A. Yes.

Q. You could use your hands then, couldn't you?—A. That letter was written at the same time as I wrote to Dr. Bell.

Q. I am asking you about the letter you wrote to Dr. Bell on 11th
40 October, and you say it was in reply to a letter you received about a year before because you could not use your hands before that. Are you saying that seriously, because you wrote to Dr. Ritchie in May? That could not be correct, that you did not answer it for over a year because your hands were bad.—A. Somewhere about 12 months.

His HONOR : Do you say that throughout that 12 months you were not able to write?—A. No, I was not able to write for quite a time.

Q. For the 12 months prior to the October when you coughed up this object?—A. I had written before that but it was only on rare occasions that I could write, and on those occasions it is difficult to remember.

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Mr. MONAHAN : During that time you had a party at your home and one man had more cherry brandy than was good for him. Do you still say you could not write because of tetany ?—A. They came down from Tamworth to see me, and it was not a real party for me, they were at a party before they came to my place.

Q. At any rate on the 11th October when you did write you thanked him for his letter, and you say : “ You have probably heard from Dr. O’Hanlon full details of a piece of drain tube that was left in my neck.” Did you mean him to take it that it was left there by him ?—A. Yes, I thought he would understand that. 10

Q. “ I have been feeling quite worried. Please doctor do not think I blame you or anyone at the hospital.” Were you telling him the truth when you said that ?—A. No.

Q. Why did you write a lie to him ?—A. I don’t remember writing it.

Q. If you had any doubt about it, just have a look at it ? (Letter of 11th October, part of Exhibit C, handed to witness.) Read it out loud to the jury ?—A. I don’t think I could see to read it aloud.

His HONOR : Have you any glasses ?—A. No, I have not any glasses.

Q. Are you wearing glasses ?—A. No, I don’t wear glasses, but I 20 will have to get some.

Q. And you say you cannot even read print ?—A. I can read print.

Q. Can’t you read your own writing ?—A. Yes.

Mr. MONAHAN : Well, read it out ?—A. I cannot see to read it in this light.

Q. I will read it to you, see if this is right ? “ You probably heard from Dr. O’Hanlon giving full details of the piece of drain tube that was left in my neck. I have been feeling quite worried. Doctor please do not think I blame you or anyone at the hospital.” If that is there you say you wrote what is a deliberate lie, is that it ?—A. If I wrote that, I don’t 30 remember it at all.

His HONOR : Is there any doubt that you wrote it ?—A. If it is there, I wrote it.

Q. And that is your writing ?—A. Yes.

Mr. MONAHAN : Have you any explanation to offer why you should write something that is a deliberate lie ?—A. No.

Q. “ I am a little better to-day, it is ten days since I was so ill, the tetany had me drawn into a ball for 24 hours.” Do you remember writing that ?—A. Yes.

Q. “ I think it was then that the tube burst into my gullet.” That is 40 what you said ?—A. Yes.

Q. “ And I almost choked.” That is what you wrote isn’t it ?—A. Yes.

Q. “ I am not quite so sore on the sides of my body.” Do you say the sides of your body had been affected in any way ?—A. It is “ on the sides of the neck ” here.

Q. You can read it then ?—A. I can see that in this light.

Q. Just have another look—it is on the third line from the bottom. Had you ever been sore on the sides of your body ?—A. I meant the sides of my neck. 50

- Q. The sides of your body is what you have written ?—A. I have got that there, but that is not what I meant.
- Q. Your description is not accurate, is that what you say ?—A. Yes.
- Q. “ But still very sore along the spine.”—A. Yes.
- Q. Do you say that you had been sore along the spine ?—A. Down the back of the neck.
- Q. “ And in the throat. The left side of my neck is very red and hot.” Do you see that ?—A. Yes.
- 10 Q. “ My voice is much improved. If you can suggest anything to help me back to health I will be thankful. But doctor don’t worry about the tube.” Is that what you have ?—A. Yes.
- Q. And then you signed it with this nickname ?—A. Yes.
- Q. According to what you have told us at this time in connection with the operation, there was still a balance of 25 guineas owing ?—A. My husband said he would not pay the £25 until I was well.
- Q. When did he say that ?—A. After I became worse.
- Q. When was that that he said that ?—A. My health gradually began to grow worse.
- 20 Q. When was it he first said that ?—A. I have no idea what date but it was after I had been in the Quirindi Hospital, after I left St. Luke’s.
- Q. After the first visit to Quirindi Hospital ?—A. No, after the operation.
- Q. You were in Quirindi Hospital from the 4th May to the 9th June, when was it your husband said that ?—A. It was some time after the 9th June.
- Q. That your husband said he would not pay the balance ?—A. Not until I regained my health.
- Q. Did you ever suggest to Dr. Bell that you were not going to pay the balance of your account because you were blaming him for something ?
- 30 —A. No.
- Q. At that time you had no reason to suppose something had been left behind in your throat ?—A. No, but Dr. Bell told me I would be well in quite a short time.
- Q. Then this occurrence happened that you have told us about and you then had the idea that Dr. Bell had been guilty of what you regarded as a piece of the grossest carelessness in leaving this piece of tube behind after pulling something out ?—A. Yes.
- Q. And you had yourself put yourself back under his care in the hospital ?—A. I was sent back to the hospital.
- 40 Q. Who sent you back ?—A. Dr. Cooper.
- Q. To St. Luke’s ?—A. Yes.
- Q. Didn’t you go back to St. Luke’s in response to a suggestion from Dr. Bell or Dr. Ritchie that you come back to St. Luke’s and see what was wrong ?—A. Yes.
- Q. In fact you got that letter from Dr. Bell suggesting that you had better come down, that he could not understand what was being told to him, that you had better come down and let him see you ?—A. I had a letter from Dr. Bell.
- 50 Q. Suggesting that you had better come down ?—A. Yes.
- Q. That is why you did go ?—A. I cannot say it was.
- Q. However, then, for a period that you were in the hospital, from 26th October until 3rd November . . . ?—A. I cannot say the dates.

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Q. That is approximately eight days?—A. Yes, I was in hospital eight days.

Q. And you were under Dr. Bell's care, being examined by him every day, or practically that?—A. Yes.

Q. Did you say one word in that period to Dr. Bell to suggest to him that he had left this tube in your throat?—A. Yes, I mentioned that the drain was left in my throat but doctor did not wish to speak about it.

Q. What did he say about it?—A. There was no discussion about the drain.

Q. And you were also, during that period, being seen by Dr. Ritchie? 10
—A. Yes.

Q. You were Dr. Ritchie's patient before Dr. Bell came on the scene at all?—A. I saw Dr. Ritchie on two occasions.

Q. You were Dr. Ritchie's patient and he sent you on to Dr. Bell for surgical treatment?—A. Yes.

Q. Did you discuss the matter with Dr. Ritchie?—A. No.

Q. Why didn't you tell Dr. Ritchie what had happened?—A. Dr. Ritchie said he did not wish to hear anything at all about the matter.

Q. How did he come to say that?—A. I understood it was the drain he was speaking of. 20

His HONOR: You mean you tried to tell him?—A. Yes, but he said he did not wish to hear anything at all on the subject.

Mr. MONAHAN: And you know that while you were in there Dr. Marsh saw you, didn't he?—A. Yes.

Q. And did you understand he was a throat specialist when he saw you?—A. Yes.

Q. And he made a most careful examination of your throat right down to the entrance of the œsophagus or the canal that goes down to your stomach?—A. Well, he examined my throat.

Q. And at that time you were of the opinion that this thing had come 30
out near your tonsils?—A. No, it was after Dr. Marsh saw me that I knew it came out from the tonsils.

Q. And didn't Dr. Marsh make a careful examination of your tonsils and around the back of your throat?—A. Yes.

Q. And didn't he tell you that there was not the slightest sign of any foreign body coming out through the walls of your throat?—A. No.

Q. Was there pus exuding out into your throat then?—A. Yes.

Q. And was his attention drawn to it?—A. He gave me a gargle.

Q. And didn't he say that your tonsils were a bit diseased and that your tonsils were exuding unpleasant pus and gave you a gargle?—A. No, 40
he did not.

Q. Did he give you a gargle?—A. Yes, he said that the left tonsil was to be painted, I forget how often, but it was quite frequent.

Q. And that was the spot that you say this thing came through into your mouth?—A. Yes.

Q. And didn't Dr. Marsh tell you there was no sign of anything having come through, that there was no sign of any lesion or aperture there?—A. No.

Q. But he did tell you that that tonsil was a bit infected and had to be painted?—A. He said the left tonsil was slightly inflamed. 50

Q. And it was for that purpose that he prescribed for the inflammation of your tonsils?—A. Yes.

Q. And that was the only thing?—A. That was all he said.

His HONOR: I understood you to say you were conscious of the fact that pus was accumulating in your mouth at the time?—A. Yes.

Q. You were not actually conscious of it yourself?—A. Yes.

Q. How did it manifest itself?—A. I did not know where it was coming from.

Q. How did you know it was there?—A. I could taste it.

10 Mr. MONAHAN: You left the hospital on 3rd November. Now what happened after that? When was it you next saw Dr. Bell?—A. A fortnight after I called to see Dr. Bell.

Q. A fortnight after you came to Sydney again?—A. I was over at Manly, it was some time during the next month.

Q. What happened on that occasion?—A. Well, nothing. Dr. Bell asked me to see him before I went home and I fulfilled that promise and that is all.

Q. Did you call in and see him?—A. I just called in and saw him.

20 Q. Was there anything wrong with your neck and throat on that occasion?—A. Yes.

Q. Did you call his attention to it?—A. It was getting better on that occasion.

Q. When was the next time you saw him?—A. At Easter.

Q. You went in with your husband, did you?—A. Yes.

Q. And what did you say to him on that occasion? I suppose you parted quite good friends when you went home after your stay at Manly?—A. No, I could not say we were really good friends.

30 Q. When did you change? You had written him a friendly letter and he had been seeing you in hospital?—A. This was all before I wrote the letter, before I had been at Manly. I really had not had any quarrel with Dr. Bell.

Q. Then you went home. What was the interval before you saw him again. You came down at Easter, did you?—A. Yes, about six months after.

Q. What did you say or what did your husband say then?—A. Something about the drain in my throat. The doctor said he did not leave the drain in my throat.

40 Q. You must have said something first. How did the conversation start when you went in?—A. Doctor asked me, did I come down for the show.

Q. Didn't you tell him what you came down for when you called at his surgery?—A. Yes.

Q. Didn't you tell him what you came down for when you called at his surgery or did you leave him to inquire?—A. I came down to see if he wished to do anything about the drain.

Q. How did the conversation start?—A. I don't remember how it started.

50 His HONOR: What did you come down to Sydney for on that occasion, was it to see Dr. Bell?—A. I came down to the show, and I went to see Dr. Bell.

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Q. What did you go to see Dr. Bell for?—A. I went to see what he wished to do about the drain.

Mr. MONAHAN : What was there to do, everything was all right then wasn't it, and you did not blame him for it, did anyone suggest that you should make a claim against him?—A. No, I made that suggestion myself.

Q. When did that suggestion occur to you that you could claim money from him?—A. I don't know when it occurred.

Q. Do your best to think?—A. It may have occurred when I was off in St. Luke's Hospital.

Q. Anything may have happened, but when did the idea of claiming 10 money from him come into your mind?—A. Some time before I came to Sydney.

Q. You mean between the interval of going back from Manly and coming down for the show?—A. Yes.

Q. You got the idea of claiming the money?—A. Yes.

Q. You say you asked him what he was going to do about the drain?—A. Something like that—something to that effect.

His HONOR : Did you make it clear to Dr. Bell that you had come to discuss with him the question of financial compensation to be paid to you?—A. Yes. 20

Q. That was the subject matter of the talk?—A. Yes.

Mr. MONAHAN : And you say that he denied then that he had left any drain in your throat?—A. Yes.

Q. And he said : " If you are going to make any claims of that sort you had better see your solicitor " ?—A. Yes.

Q. What I want to put to you is this : That when you talked in that way to Dr. Bell, that his answer to you was : " You had better go and see Dr. Ritchie. He was your doctor before I came into it at all." He told you that you had better see Dr. Ritchie?—A. He asked me if I had seen Dr. Ritchie. 30

Q. Didn't he say that you had better go and you thereupon went and saw him?—A. He told me to go.

Q. He told you to go and see Dr. Ritchie if you were making claims?—A. No.

Q. You commenced by making a claim?—A. Yes.

Q. And after you made the claim didn't he say : " Go and see Dr. Ritchie, you are really his patient " ?—A. He did not mention patient.

Q. He told you to go and see Dr. Ritchie?—A. Yes.

Q. And you went and saw Dr. Ritchie?—A. Yes.

Q. And he told you that your story was absolute nonsense?—A. No, 40 he told me to come back in ten days.

Q. When you gave him this story that you have told the jury about this piece of piping that worked its way through your flesh and into your mouth, he said that it was absolutely ludicrous and absurd and could not happen?—A. No. Dr. Ritchie did not talk on the subject.

Q. Didn't he tell you that he regarded your claim as absolutely fantastic?—A. No, he did not say anything about the claim.

His HONOR : Did you tell Dr. Ritchie that you had come to see him because Dr. Bell advised you to?—A. Yes.

Q. And did you tell him that the subject of your discussion with 50 Dr. Bell was a question of monetary compensation?—A. Yes.

Q. You explained that to Dr. Ritchie ?—A. Yes.

Q. And was it then that Dr. Ritchie told you to come back in ten days ?—A. Yes, he told me to come back in ten days, that he was going to Melbourne.

Mr. MONAHAN : Did you go back in the ten days' time ?—A. No, it was six weeks before I could get back to Sydney.

Q. Did you go back then ?—A. Yes, I went back to see him.

Q. What happened on that occasion ?—A. Dr. Ritchie said he could not do anything on that occasion.

10 Q. Didn't Dr. Ritchie tell you on one occasion that the story of what had happened on the 2nd October and 5th October was absolutely incredible, that he could not accept it as a statement of fact ?—A. No.

Q. He didn't ?—A. No, Dr. Ritchie did not speak of it.

Q. Did he ever say anything to indicate that he believed what you told him as to how this thing was supposed to have worked through your flesh and came into your mouth ?—A. I understood he believed me.

Q. From what he said you thought he believed you ?—A. Yes.

Q. You say that positively ?—A. Yes.

20 was Q. And you deny that he said anything to the effect that your story was incredible ?—A. No, he had no conversation of that sort.

Q. He led you to believe that he had accepted your story and that that had happened ?—A. Yes, without words.

Q. Now, do you ever suffer from imagination or hallucinations, or think things have happened that have not ?—A. No.

Q. Did you consult Dr. O'Hanlon again on the 13th April of this year, that is after you had commenced these proceedings ?—A. No.

Q. Did you swear you did not ?—A. No, I never consulted him.

Q. Now just think ?—A. April this year ?

30 not for Q. Did you go and see Dr. O'Hanlon in April of this year ?—A. No, illness.

Q. Did you go and see him and have a talk with him ?—A. Yes.

Q. What were you seeing him about ?—A. Doctor asked me to call and see him.

Q. Did you tell him anything when you got there ?—A. That was nothing connected with the case.

Q. I know it was not, but what was it you told the doctor on that occasion ?—A. I cannot say.

Q. Do you say you can't remember ?—A. No, I can't.

40 to : Q. Didn't you tell him on that occasion that you were— (Objected allowed).

Q. Didn't you tell him on that occasion that you thought you were pregnant ?—A. That is a different matter.

Q. Didn't you say that to him on this occasion that you say he asked you to come and see him—and didn't you then go on to make a charge against your husband ? (Objected to—allowed). Didn't you tell him that ?—A. No, but I went to see him.

Q. That you thought you were pregnant ?—A. No, not when I went to see Dr. O'Hanlon.

Q. Did you ever tell him that ?—A. Yes, on one occasion away back.

50 Q. I am putting it definitely to you in April of this year, that you called there as you say in response to a suggestion of his ?—A. No.

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Q. That you had a conversation and that you told him that ?—A. No.

Q. Did you tell him on that occasion that your husband had done things that were improper to you. Did you make a charge on that occasion against your husband ?—A. No, not when I went to see Dr. O'Hanlon.

Q. Do you mean you did that on some other occasion ?—A. Doctor came to see me on some other occasion.

Q. This year ?—A. It would be early in this year.

Q. Didn't you in April of this year tell him that your husband, had struck you and didn't he answer that by saying " I don't believe you, he is one of the most devoted husbands I know of " (Objected to—allowed) 10
Didn't that happen ?—A. No.

Q. And was not a reference made to your girl when she was present as to whether there had been any striking ?—A. I don't know, I am sure.

Q. Didn't you also on this occasion, charge your husband with having interfered with your food, poisoned it, to the doctor, didn't you charge your husband with that on this occasion ?—A. I said my food had been tampered with.

Q. And didn't you say it was your husband who had done it ?—
A. No.

Q. Who was it then ?—A. I don't know. 20

Q. Do you mind telling us how old you are ?—A. I am 40.

Q. Your birthday is in October ?—A. Yes.

Q. It was in last October that you were 40 ?—A. Yes.

His HONOR: Go back to the morning of 5th October. You had been suffering a good deal of pain and discomfort for about 18 months ?
—A. Yes.

Q. And you thought there must be something fairly serious the matter with you ?—A. Yes.

Q. And you thought also that you had swallowed some foreign body that came from your throat about two days beforehand ?—A. Yes. 30

Q. Were you expecting that this foreign body would be likely to emerge because of the aperients you had taken ?—A. I didn't know.

Q. Did you think it might ?—A. I thought it might.

Q. So it was a matter that you had present in your mind that this foreign body might pass through ?—A. I thought the day before.

Q. Had you taken an aperient the day before ?—A. Yes.

Q. And then you had taken another one ?—A. Yes.

Q. Why did you take the last one if you did not expect a foreign body to pass ?—A. I still had a pain.

Q. Did it not occur to you that the foreign body might still be there ? 40
—A. Yes, but I had no idea that it would not dissolve.

Q. You gathered that something might pass ?—A. Yes.

Q. And when you saw this object in the pan on the morning of the 5th did it cross your mind then that this was the object apparently that you had swallowed ?—A. Yes.

Q. And this pan that you were taking out to empty, what sort of handle did it have ?—A. It was somewhat the shape of a cup with a cover.

Q. Not a loop handle over the top ?—A. No, on the side.

Q. So that you would hold it in one hand ?—A. Yes. 50

Q. And you had it in your hand when you went to the lavatory and you saw this apparent object in it ?—A. Yes.

Q. And then you were surprised by someone approaching?—A. Yes.

Q. Didn't it occur to you to go inside and close the door and wait?—

A. I was so startled at seeing it.

Q. I thought you told me you thought some object would come through?—A. I really was not expecting to see it.

Q. When you saw something there, didn't you think: "This is the thing I have been looking for?"—A. I did think that.

Q. Didn't it occur to you then to put down that pan at once and get someone to come and see it?—A. I was so startled that I did not think
10 of it.

Q. Startled by someone approaching?—A. No, startled by the sight of the thing in my hand. I had no idea what it was.

Q. Then you say someone came towards you?—A. Yes. There are 13 or 14 steps at the back of my place, and I heard them coming up the steps.

Q. Didn't it occur to you to go inside and shut the door and wait until they had gone?—A. I did not shut the door. You would under certain circumstances, but I was so slow in moving that it was difficult for me to get out of the room.

Q. When you poured this pan that you were carrying in your hand into the lavatory bowl you still held it in your hand and pulled the chain with your other hand?—A. Yes.
20

Q. Was your hand at the time holding the foreign object?—A. Yes, I was really leaning against the door.

Q. Was the door shut or open?—A. It was open, I had to step inside.

Q. And did you stay in then to empty this pan and pull the chain, so that if anyone came up the steps you would be in full view?—A. I stood in the door and I had to turn around and close the door or I would have
30 fallen out, I was very, very weak.

Q. And the importance of it did not strike you at the time?—A. No, not at the time.

Q. Neither did it strike you as important to get the doctor immediately?—A. Not immediately because Dr. O'Hanlon, we had sent for him so often that he said he could not do anything.

Q. Because he said he could not do anything for you?—A. Yes.

Q. This was a new and very important development, wasn't it?—
A. Yes.

Q. Something that surprised and startled you?—A. There had been
40 other things that had surprised and startled me, but doctor did not seem able to do anything about it.

Q. You thought this was a foreign body that had come from the spot in your neck where this operation had been performed?—A. Yes.

Q. And did you at that time, when you first saw it, connect it in your mind with the operation?—A. No, not immediately.

Q. Did you have any idea of what it could possibly be?—A. No.

Q. And it did not occur to you to put that pan down at once and leave it there until Dr. O'Hanlon or someone came and saw it?—A. No, it all happened so quickly.

Q. How did it come to slip out of your hand?—A. I had it in my
50 fingers and I tried to pull the chain.

Q. You had it between your thumb and forefinger?—A. Yes.

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Q. And you tried to pull the chain with the other three fingers?—
A. Yes.

Q. Is it a ring on the chain?—A. Yes.

Q. And you tried to put your fingers in the ring?—A. Yes, I could not stand up straight or erect; I was leaning against the wall, really.

Q. And did you pull it towards you, the chain?—A. No, I pulled it straight down.

Q. Does it hang over the pan?—A. It hangs straight over the pan, straight over the top of the pan, the seat of the pan was turned back at the time. 10

Q. As you pulled the chain it fell from your fingers?—A. Yes. It was before it hit the water that the water was running.

Q. You had pulled the chain?—A. Yes.

Q. What did you do after that, did you shut the door?—A. No, I went back on to the verandah.

Q. And when did you see who it was coming up the steps?—A. When Mr. Hocking came in.

Q. So that as soon as you came back from the lavatory you saw your husband?—A. By the time I got out of the lavatory he stepped on to the verandah. 20

Q. Before then you did not know who it was?—A. I thought it was he.

Q. You could not see him as he went in to the kitchen?—A. No, I was still in the toilet.

Q. He could not see you?—A. No.

Q. Did you tell him at once about this object?—A. Yes, that is when I drew the sketch.

Q. It was that morning that you drew the sketch?—A. Some time during the day.

Q. And it was the following day you saw Dr. O'Hanlon?—A. Yes. 30

Re-examined.

Re-examina-
tion.

Mr. HARDWICK: You remember some questions were asked about how you told of this pus being in your mouth and you said that you could taste it. What was the condition of your tongue?—A. It was terribly coated and I had to scrape my tongue or have my tongue scraped with a toothbrush to scrape the dry pus off it each morning.

Q. You were asked some questions about Dr. Marsh, as to whether or not he did not tell you that after a thorough examination there was no sign of anything having come into that cavity in the throat, and you say that he did not say anything of the kind. At what date was it that you first knew that there was a scar on your tonsils. Was it before Dr. Marsh saw you or after?—A. It was after. 40

Q. Did he say anything to you about it?—A. He said I had a slight infection on the left tonsil, that is all he said to me.

Q. How did you know later that there was a scar there?—A. After I left St. Luke's Hospital I had to paint my own tonsils, and after the swelling went down sufficiently I could see where to paint it and the inflammation went out of it, and I could see the scar well after that.

Q. Did you show it to any doctor, the scar?—A. I showed it to Dr. O'Hanlon. 50

Q. Did he agree or otherwise as to whether it was or was not a scar?—
A. Yes, he said it was a scar.

Q. You were also asked about this interview in April 1940 when you saw Dr. Bell and it was suggested that you go and see Dr. Ritchie. Did your husband go with you to Dr. Ritchie?—A. Yes.

Q. Was your husband present at the conversation?—A. Yes.

Q. Do you remember Dr. Ritchie saying something about his belief in anything at that interview?—A. Well, he told my husband that it was against the law of gravity, that is all.

Q. Did he say anything about his belief in anything?—A. No.

Q. You don't remember that?—A. No.

10 Q. Then you told us that he said he was going away and he would like you to come back?—A. Yes.

Q. Then you went back to him?—A. Yes.

Q. Do you remember when you first saw a Mr. Thomas of Quirindi, your solicitor, was it after you were down here or before?—A. It was after.

Q. How long after?—A. I cannot say how long after.

Q. Was it long after?—A. Not long after.

Q. And did you come down to Sydney after that?—A. Yes.

20 A. Yes. Q. And you had a conference with a barrister in his chambers?—

Q. Mr. Emerton, wasn't it?—A. Yes.

Q. When was that?—A. Around about Easter I think.

Q. You were down at Easter when you saw Dr. Bell. Did you see Mr. Emerton when you were down here on that occasion?—A. No, it was after.

Q. Did you come back to Sydney to see him?—A. Yes.

Q. Do you remember whether it was in relation to the time you saw Dr. Ritchie when you saw Mr. Emerton?—A. Yes.

30 Q. When you returned to Sydney and saw Dr. Ritchie you saw Mr. Emerton?—A. Yes.

Mr. MONAHAN: When was that occasion that you saw Dr. O'Hanlon that you say his attention was drawn to this scar on your tonsils, when do you place that?—A. That was after I returned from St. Luke's Hospital to Quirindi.

Q. Was it before you saw Dr. Bell?—A. Yes.

Q. It was in the interval then between . . . ?

His HONOR: It was after you went to Manly, and then went back to Quirindi?—A. Yes.

40 Mr. MONAHAN: Was it before the end of the year?—A. I have no idea of the date.

His HONOR: It was before you came down for Easter?—A. Yes.

Mr. MONAHAN: It was in that interval that Dr. O'Hanlon's attention was drawn to the scar?—A. I think so. It was soon after I left St. Luke's Hospital.

Q. It was soon after you got home, was it?—A. Yes.

(Witness retired.)

(Further hearing stood over until Tuesday, 9th December, 1941, at 10 a.m.)

*In the
Supreme
Court of
New South
Wales.*

*Plaintiff's
Evidence
in previous
Trials.*

No. 2.
First Trial.

Stella
Eileen
Hocking,
8th
December
1941,
Re-examin-
ation,
continued.

CASE IN REPLY.

PLAINTIFF

Recalled on former oath :

*In the
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New South
Wales.*

*Plaintiff's
Evidence
in previous
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*No. 2.
First Trial.*

*Stella
Eileen
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9th
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1941,
Recalled.*

Mr. HARDWICK : I want to ask you this : When you were in St. Luke's Hospital, between 26th October, 1939, and 2nd November 1939, did Dr. Ritchie make any examination of you at all ?—A. None at all.

Q. Did he open your mouth ?—A. No.

Q. How many times did you see him while you were in St. Luke's Hospital ?—A. I saw Dr. Ritchie the night I arrived, he just stepped in the door. The next day he walked around the bed and sat down and I did not see him again until the morning I left, he just came in and dismissed me from the hospital. 10

Q. Did he have any conversation with you ?—A. No.

Q. Do you remember him saying anything to you ?—A. No, he said he did not wish to hear anything . . .

Q. That is something. I want to hear what he said ?—A. That is all he said, he just put his hand up and said he did not wish to hear anything.

Q. Do you remember subsequently seeing Dr. Ritchie after you had seen Dr. Bell in March 1940 ?—A. I don't remember the day.

Q. About Easter time, 1940, when you came down to the show ?—A. Yes. 20

Cross-examined.

*Cross-
examina-
tion,*

Mr. MONAHAN : What time did your husband bring in your breakfast on the morning of 2nd October ?—A. I don't know the time, it was early in the morning.

Q. Can't you give the jury any idea ?—A. No, only that it was early.

Q. When did you eat it ?—A. I did not eat breakfast at all.

Q. Where did you leave it ?—A. On the side table.

Q. So he could see that you had not eaten it. You left it in a place perfectly obvious when he came into the room ?—A. No. 30

Q. Where did he leave it ?—A. On the table.

Q. Did you move it ?—A. Yes.

Q. Where to ?—A. I pushed it back again.

Q. Over further away from where you were lying ?—A. It was back behind the door.

Q. Did you push the table and all ?—A. Yes.

Q. You got out of bed and pushed the table ?—A. It is a small bedside table.

Q. And you pushed it behind the door ?—A. Just a touch.

Q. And you suggest you put it in a position where you suggest your husband could not see whether you had eaten it or not ?—A. My husband would have to remove the cloth from the tray. 40

Q. Who did remove it, how long was it left in the bedroom ?—A. I cannot tell you.

Q. Who shifted it ?—A. I cannot say who shifted it.

Q. Was there anyone besides your husband who could have, there was no one else in the house, was there ?—A. No.

Q. If you did not shift it, it must have been your husband ?—A. Yes.

Q. You would not suggest that it was there for more than the whole morning ?—A. If my husband went to business it may have stayed there till lunch time. 50

Q. And you say you cannot remember anything about it when it was brought in. Can you remember whether it was before or after you got up the first time?—A. I was not interested in breakfast that day.

Q. That is not an answer to my question. You were very interested in what you got up for on the first occasion; was it before or after that that your husband brought your breakfast in?—A. I think it was before 7 o'clock.

Q. Before 7 o'clock?—A. It was early.

Q. And when did you push it behind the door?—A. I cannot say.

10 Q. You don't know, but it was some time between then and lunch time that your husband moved it?—A. I was not at all interested.

Q. I am not asking you that, did you say some time between then and lunch time your husband removed the tray?—A. At some time.

Q. And took it out of the room?—A. I don't know.

Q. What else would he do with it?—A. Naturally he would take it out to the kitchen.

Q. And naturally he would become aware then that you had not touched your breakfast?—A. He may.

(Witness retired.)

(Lefter m.f.i. tendered—objected to—disallowed).

In the Supreme Court of New South Wales.

Plaintiff's Evidence in previous Trials.

No. 2. First Trial.

Stella Eileen Hocking, 9th December 1941, Cross-examination, continued.

20

No. 3.

SECOND TRIAL.

EVIDENCE of Stella Eileen Hocking.

No. 3. Second Trial.

Stella Eileen Hocking, 12th August 1942.

IN THE SUPREME COURT OF NEW SOUTH WALES. No. 3 CAUSES. Coram : HERRON, J., and a Jury of Four.

Wednesday, 12th August 1942.

HOCKING V. BELL.

Mr. HARDWICK, K.C., and Mr. CARSON appeared for the Plaintiff. Mr. REIMER and Mr. LOXTON appeared for the Defendant.

30

(There being insufficient jurors present summoned for No. 3 Causes Court the parties, by consent, agreed to the use of two panels together.)

PLAINTIFF.

Sworn : Examined : Deposed :

To Mr. HARDWICK : My name is Stella Eileen Hocking and I am the wife of Edward Hocking, of Quirindi, where I live with my husband. In October 1937 I was not very well and went into Quirindi Hospital from 19th October to 15th November 1937, under Dr. O'Hanlon. Up till October 1937 I had never been seriously ill, and had even had but very few colds.

Examination.

40

After I came out of Quirindi Hospital in 1937 my health had not improved, and Dr. O'Hanlon advised me to go to Sydney and consult a specialist, Dr. Harold Ritchie, which I did. After seeing Dr. Ritchie he

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advised me that I had thyroid trouble, and that it would be necessary for me to consult a surgeon, and I then consulted Dr. Bell on the recommendation of Dr. Ritchie.

Dr. Bell said that I needed an operation. He asked me had I made any arrangements with the hospital, and what hospital I wanted to go to. I said I did not know what hospital, that I had not made any arrangements. He suggested St. Luke's, and I went into that hospital on 21st February 1938, and remained under treatment, being attended to by Dr. Bell and Dr. Ritchie during that period. On 15th March 1938 I was operated on in St. Luke's Hospital by Dr. Bell. I unbutton my dress and show His Honor 10 and the jury where the incision was made.

When I came out of the operation and I was in the ward I noticed that my neck was bandaged, but did not notice anything else that day. The next day I noticed that there was something out of the right side, though I did not see it. I could feel it, but did not touch it, though I knew it was there. There is an indication on the neck at the present time showing where that tube was, a slight triangular scar. I noticed the condition of my face a day or two after the operation; it became very swollen. Dr. Bell said that the tube was not working. I thought he told me that about the fifth day after the operation, though it may have been earlier. He said 20 the tube was not working, and that he would remove it.

(Luncheon adjournment.)

2 p.m. :

Dr. Bell stated the drain was not working, and that he would remove it. He just pricked it on the side. It did not seem to come out, so he pulled, and then it did not seem to come, so he put his hand on my forehead and pulled, and the drain came out. I saw the little black piece in his fingers. He threw it into the tray, and he and the nurse went out of the room. He said "Damn," and I said "Oh." I had a stinging sensation in the neck. The piece in his hand was about half an inch long from what I 30 saw, but I do not know what was at the back of his fingers. It was sticking out between his fingers.

After that incident I became seriously ill. My face and neck were very swollen, and I was running a temperature. They were putting hot fomentations on my neck in front, which went on for some time, though I could not say how many days. They were applied for some hours, and the neck then burst, started to discharge, and my temperature gradually went down. I point out the spot from where the discharge came, in the front, not where the tube was taken out. I did not hear Dr. Bell tell the nurse what to do when the tube was taken out. 40

After the discharge began to come away Dr. Bell used to probe the opening with some sort of forceps. He seemed to pick at it. The forceps were like a pair of scissors, but not sharp. The sister did the picking in the presence of Dr. Bell. When the sister was there Dr. Bell put his hand round my throat and pressed hard and would say to sister "now," and sister would pick my neck at the opening, where the discharge had been coming through. He said he was picking after knots. I did not see anything at any time that the sister got hold of.

To His HONOR : After I went back to Quirindi I noticed some hard pieces coming out of this wound; I got one or two out myself. 50

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To Mr. HARDWICK : I remained in St. Luke's Hospital till 14th April 1938. Before I left there I had cramps in my hand and prickly feelings. Dr. Bell said it was pins and needles. I do not know when I first noticed that. Dr. Bell said it was slight tetany, and that with a few doses of calcium it would be quite all right. Up to the date I left St. Luke's Hospital the wound was still open and discharging. Dr. Bell told me to dress the wound after I left the hospital ; I had special spirits and sterilised pads, and I used to dress it. He told me that before I left the hospital. Dr. Bell approved of my leaving the hospital. He said that he would let Dr. O'Hanlon
10 of Quirindi know, and that he would see to me when I returned home.

I went home by car with my husband, stayed at Newcastle one night and went on to Quirindi the next day, arriving home about 16th April. After I got home my face was still the same. My throat was still discharging and I had to dress my throat sometimes every hour and at other times perhaps only three times a day, depending on the discharge. Pus and discharge would be coming away from the opening in front of my neck.

I have spoken about the tickling sensations that I had when I was in St. Luke's Hospital. After I returned to Quirindi I had some sensations, but they were much worse, the sensation gradually became worse as the
20 days went on. It was kind of cramps and pulling on the muscles, straining my hands for a start, and then the body, stomach and legs, drawn up. I indicate the first way my hand went, both thumbs turned in towards the palm. That occurred some days after I came home from St. Luke's.

I remember when Dr. O'Hanlon first saw me ; I had been home about ten days then. Those symptoms I have just described were not apparent when Dr. O'Hanlon saw me first. I don't think I had had any sensations other than those that I had in St. Luke's Hospital at the time that Dr. O'Hanlon saw me first.

I have said that I left St. Luke's Hospital on the 14th April. I
30 remember going into Quirindi Hospital on the 4th May, three weeks all but a day after I left St. Luke's. The worst occasion in regard to the hand movements was the night before I went up to the hospital. My hands were drawn round and doubled up like I am now illustrating, and the muscles in my stomach, and knees drawn up, and also my feet. The foot was turned with the inside upwards and the outside downwards, and the knees up towards the middle part of my body.

Dr. O'Hanlon was called in on the night to which I have just referred, and he wanted to take me up to the hospital that night, but I was hoping I would be better, and did not wish to go in. On the day before I went
40 into Quirindi the spasm may have lasted half an hour, though I could not say exactly. I had that spasm before Dr. O'Hanlon arrived. After I left St. Luke's and went back to Quirindi I was taking calcium tablets, and I think it was five drops of iodine. I forget how often I was taking it. The tablets and iodine had been prescribed by Dr. Bell.

I have said that I went in on the 4th May and remained in the Quirindi Hospital on that occasion until the 9th June, 1938, when I was discharged. During the time I was in the hospital I had some of those spasms. I could not say how many, but it would be five or six. When they came on Dr. O'Hanlon was sent for immediately, and he was present while
50 they were on. When he came he gave me intravenous injections in the arm. I was in the hospital a week or so before he started giving me intravenous injections. The opening I have referred to where the incision

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was made was still open, and there was something coming away. While I was in the hospital I happened to turn my head round to the left side, and something stuck in the side of my neck, and when I turned round the blood was running down the front of my chest. The spasms gradually grew worse, and both hands were drawn around tight, with the thumb in the position I have described, and my finger nails cutting into the palm of my hand. My legs were drawn up very much, and I was in a ball, drawn round, curved back. My tongue would be drawn back in a lump, the muscles would draw the tongue back tight, and the veins in my hands became very swollen and dark because the circulation was stopped. They were very prominent. It was pulling on the back of the muscles of my eyes. It would pull perhaps more one than the other on different occasions, sometimes both eyes would be pulled back. The muscles in the abdomen were drawn up very tight. 10

At the hospital during those spasms the intravenous injections and massage were given. The massage was done by the nurses. At the beginning it was applied on my face, and then they massaged my arms and legs—I was massaged all over. That is when I was in the spasms. I could not say the longest period I had those spasms while I was in the hospital, but it would be about half an hour to a couple of hours. At times during the period I was in Quirindi Hospital I lost consciousness from those spasms, but I could not say on how many occasions. 20

Whilst I was in the Quirindi Hospital during this period the nurses dressed the wound several times a day, and it was kept open. There were knots taken from that opening, but I could not say the number. I had intravenous injections frequently during the time I was in the Quirindi Hospital, and they continued during the whole of the time I was there.

I left the hospital with the authority of Dr. O'Hanlon, and Sister Sly went to my home with me and stayed there five or six weeks. At the same time my sister named Maher was also at the home, and a Mrs. Fisher came to assist in the house. 30

After I came back on the 9th June and while Sister Sly was there, I had several of these tetany spasms, and they were about the same in regard to severity as the ones I have described in the hospital, and the same symptoms in the various parts of the body as I have already referred to. In the earlier stages I ate more solid food than I did subsequently. During the later period I could eat nothing but very soft foods, that is, after I came out of Quirindi Hospital in June 1938.

I remember after I was operated on in the hospital having cough trouble in the throat. I did not have a cough at all before I went in there. That cough developed two or three days after the operation, and it continued occasionally after I left the hospital and went back to Quirindi. It was making itself manifest up till I returned from the Quirindi Hospital. 40

After I went home Dr. O'Hanlon came to my home every day and gave me intravenous injections each morning. This did not continue the whole of the time that Nurse Sly was there, but it did for over a month. The opening I have spoken of closed up between two and three weeks after I left Quirindi Hospital. After the wound closed up my face became more swollen. I was puffed all round the eyes and the cheeks, and the neck was puffed out, and I had quite a lump on the back of my left shoulder which would sometimes disappear and at other times would return. The doctor attending me did not prescribe anything for the swelling, and the 50

intravenous injections were not going on. A stage was reached when no more were given.

Mr. HARDWICK : Was there any reason for that ? (Objected to—withdrawn).

Q. You told us about Dr. O'Hanlon putting the needle into your arm and giving you an injection in the vein—did he do that in any other part of the body ?—A. He tried other parts—(objected to).

Q. Did he put it in any other part of the body ?—A. Yes—in my veins he tried all the veins he could in various parts of the body.

10 Q. On the surface of the body ?—A. No—it had to go into the veins.

Q. He reached a stage when he gave you no more injections—was anything else given to you ?—A. Yes, paroidin. That is injected into the flesh, into the skin.

Q. Before you had this paroidin injected into the skin—do not say what Dr. O'Hanlon said, but can you tell us did he suggest the paroidin or do you suggest it ? (Objected to—admitted).

Q. Did you suggest it ?—A. No—(balance of answer struck out by direction).

His HONOR : Did you ever have any medical training ?—A. No.

20 Q. Or any nursing training or anything ?—A. No.

Q. You seem to know the difference between injecting things into the skin and injecting them into the veins ?—A. I have had the experience of having them injected into the veins and into the skin—that is how I learned.

Mr. HARDWICK : Do you remember when it was you first started having this paroidin—was it after you left Quirindi the first time ?—A. Yes, when the wound closed up.

Q. And after the wound closed up ? (Objection to leading.)

30 Q. You told us when the wound closed up—I was asking when you first commenced having paroidin injected ?—A. When the wound closed up.

Q. Did you have any of these spasms after that ?—A. Yes.

Q. Was Dr. O'Hanlon still coming ?—A. Occasionally.

Q. Were the symptoms you have described similar to what you had in Quirindi Hospital ?—A. They gradually grew worse. They seemed to last longer before I lost consciousness, and I was terribly swollen in the neck. My breathing was difficult.

40 I remember being in Quirindi Hospital on the 3rd September 1938—I do not remember going there. Dr. O'Hanlon came and I was in a tetanous spasm, and he took me to Quirindi Hospital in his car. I do not remember going there—I do not remember until the next day. On that occasion I stayed there until the 6th September 1938. From September 1938 till the end of that year Dr. O'Hanlon came on rare occasions. He came to the home in the next year, 1939. From the time I came out of Quirindi Hospital in September 1938 up to the end of the year I was very ill. My face was very swollen. I was putting hot packs on my shoulder to relieve the pain. Sometimes I could get out of bed, other times I could not. I was not dressed—I put a dressing gown on.

50 Q. Now take the beginning of 1939—did this inflammation and this treatment go on in 1939 ?—A. Yes. I was still having the injections of paroidin and I was having spasms.

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Q. Was there a time when Dr. O'Hanlon ceased coming to the house regularly?—A. Yes, I have no idea of the date when he ceased. It was before the end of that year, after I left Quirindi the second time in September. I do not remember how many times I saw Dr. O'Hanlon in 1939. I remember my daughter being home from school for the holidays of September 1939. I remember him coming on one occasion then. I knew he was coming—my daughter informed me he was coming. When he came I was in bed. I was very seriously ill when he came. I could hardly breathe at all. My daughter sat me up in bed to speak to the doctor but I only said very few words.

10

Q. Were you still having those hot compresses?—A. Yes, but I did not have them on when doctor came.

Q. Were you taking any injections at this time?—A. Yes. My husband was giving me the injections. Dr. O'Hanlon showed my sister how to do it and showed my husband, and my husband used to give me them. My husband gave me these injections—sometimes I would miss a day and sometimes two, and then I would have them—sometimes I had injections every day.

Q. How often were you having these spasms during the year 1939 up till September when Dr. O'Hanlon came?—A. I may have missed several days and then had a spasm and sometimes I would have a couple of spasms in a day. It went on like that. During the last three months I was unable to eat anything more solid than very thin arrowroot and Bovril. I could not swallow it.

20

Q. Did you have anyone helping you from time to time in the home?—A. Mrs. Fisher. She used to come in the morning and remain—sometimes she would go home at lunch time and sometimes not. There were times when I had no help. My husband used to help me as much as he could.

Q. Do you remember when Mrs. Fisher first came to your home during 1939?—A. It was before I came to Sydney. My daughter was home in the school holidays in June. Mrs. Fisher was at my home when my daughter was home for the June holidays.

30

Q. Can you remember when she came in relation to your daughter's holidays—before or after?—A. She came after.

Q. For what period was she there during the June holidays?—A. I could not say, but she was there.

I remember the 2nd October—it is my birthday. On this particular day I was very, very ill. I was in bed. I had been very ill for several days. I had one continual spasm. I had the swelling of the face and neck that I have described. My breathing was difficult. My tongue was very coated. There was pus in my mouth. I could not say how long I noticed the pus in my mouth, but it was for some days. My husband had gone to work that day—I do not know the exact time, but he came back round about 3 o'clock.

40

Q. Describe to His Honor and the Jury just what happened when your husband came back?—A. When my husband came back I was very, very ill. He sat me up in bed. I had a cough, so he sat me up in bed, so I coughed and lay back and I seemed to be choking. He put water in my mouth with a teaspoon. I could not open my mouth—he put drops of water through. I could not drink out of a glass. Something seemed to burst in my mouth. I could not open my jaws to spit it out, so I coughed and swallowed it. I was very ill after that—I do not remember very much—I lost consciousness.

50

Q. Did you have any of these spasms at the time?—A. Yes, my muscles were drawn up continuously for 24 hours on Saturday. They never straightened out. They gradually straightened out after the coughing. Next day I was more or less straight. My muscles were very, very sore—all the muscles of my body were very sore for days afterwards.

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10 Q. Did you notice anything next day?—A. The next day I had a prickly sensation in my stomach—I thought I must have swallowed something, but I did not know what it was. I told my husband. I took castor oil, and some kind of salts. That was on the Tuesday.

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Q. Did you have any results from the purgatives you took?—A. Yes, on the 5th—that was the Thursday. Sometimes my husband slept in the same room as I did.

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20 Q. What time of the morning did something happen?—A. Round about 8 o'clock. I had a commode in the bedroom. I had occasion to use that. That was round about 8 o'clock, I do not know the exact time. I had the commode nearby. I used the commode and I went back to bed for a while. I adjusted my toilet—I had a washer in the room. I went back to bed for a while, then I got up to empty the pan into the lavatory. The lavatory is just out the door from the room I was occupying. The lavatory is a separate room, just on the verandah, off the bedroom on the corner of the verandah. It would be away from the door of my bedroom about as far as from here to the chair (about 6 feet). I was going to empty the pan. I was going out and I noticed there was something in the pan. I put the pan down and I picked it out with my fingers. I just put the pan on the floor.

30 Q. What was it you saw that you picked up in your fingers?—A. I did not know at the time—a piece of greyish coloured tubing with two pieces of wire sticking out of the end of it. I squeezed it in my fingers and yellow greenish pus ran down my fingers. I heard somebody coming.

Q. At the time you did this where were you?—A. I was outside the lavatory door. I heard somebody coming by the steps. I picked up the pan with my right hand and I put the article in my fingers. I caught hold of the chain with the other fingers. I was very very weak and ill and it dropped. I pulled the chain in nervousness and it dropped down and the water was running before I could get it.

Q. Had you done anything with the contents of the pan?—A. Yes, I tipped that in.

40 Q. You had hold of the chain and you heard somebody come and the thing dropped in?—A. Yes.

Q. Accidentally?—A. Yes.

Q. Did you make any attempt to recover it?—A. Well, I bent over quickly. When the water had cleared and stopped running it was not there. I went out from the lavatory. I did not see anyone at the time, but I later found out that it was my husband who came in. I related to him what had happened.

Q. Did you do anything to reconstruct the thing you had seen?—A. After I had had a rest I drew a sketch to give him some idea of what I had seen. I did not know what it was—he may know—he did not know.

50 Q. That was on the Thursday—did you see Dr. O'Hanlon after that?—A. Yes, he came to the house on the Friday night.

Q. Had you only drawn the one sketch?—A. Yes. Dr. O'Hanlon asked to see it, and he asked could he have it, and my husband looked

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at me and I said "Yes." So he asked me to autograph it, but I did not autograph it. The sketch produced is similar to the sketch I drew. I remember it was produced last time.

(Sketch tendered and marked Exhibit D.)

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Q. Can you tell us how it was in relation to size—was what you saw as big as the sketch?—A. It was quite as big as that. I drew the sketch just to see if I could find out what it was. I did not know at that stage what it was.

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While Dr. O'Hanlon was there on Friday, the 6th, in the evening, he had a conversation with my husband. Until Dr. O'Hanlon had the 10 conversation I did not know what it was.

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Q. That is 6th October. Did you notice was there anything coming into your mouth after these happenings on the 2nd?—A. Yes. It continued for several weeks. Pus was coming into my mouth. I spat it out as well as I could.

Q. Did Dr. O'Hanlon come to see you?—A. Yes. When he came in on Friday, the 6th, he tried to look at my mouth. I could not open my mouth very wide. He could look in, but I could not open it wide.

Q. How far were you able to open your mouth?

(Witness demonstrates.)

20

Q. Just about a half or one-third mouth—was it possible for him to see into the back of your throat?—A. No. I was still in bed. I stayed in bed after this incident until I left St. Luke's Hospital. I went back to St. Luke's Hospital on the 26th October 1939. I was not able to walk from my home. My husband carried me out to the taxi and he carried me from there and put me into the sleeper on the train, and the ambulance met me at the Central Station and took me to St. Luke's Hospital. From the time I was at home sick, as I have described, I was able to walk with difficulty. I would walk along the wall—I always had my hand against the wall or some of the furniture so that I would not fall. I could not 30 walk straight as I do now.

Q. At whose suggestion did you go down to St. Luke's Hospital?—A. Dr. Bell's. I went into the hospital on the 26th October 1939 and stayed there until 3rd November 1939.

Q. Up till the 26th, when you went down there, was pus coming out of the back of your mouth?—A. Yes. My throat was just a wall of pus at the back. I used to clean and scrape my tongue with a toothbrush and warm water.

When I came down to St. Luke's on 26th October I saw Dr. Bell the day I arrived. He came in and said I was a good artist. I did not 40 understand him—I thought he meant I was some kind of an actress. He said Dr. O'Hanlon had sent him the sketch that I drew, and he said it was very good. On one occasion he told me he had only heard of one other case of tetany and that was about 20 years ago and the man died.

Dr. Bell looked into my mouth. He did not have a little torch or a spatula. He asked me to open my mouth.

Q. Was there any discussion between you and Dr. Bell as to what had happened on this occasion?—A. I do not remember. I had written him a letter before coming down. I wrote a letter to the doctor on the

11th October 1939 and he replied on the 15th October 1939 suggesting I should come to Sydney for some medical treatment.

(Letter of 11th October 1939 Plaintiff to Defendant and letter of 15th October 1939 Defendant to Plaintiff, tendered and marked Exhibit C.)

Q. You say Dr. Bell did not examine your mouth with a spatula and a little electric torch?—A. No.

Q. Did any other doctor come in to see you?—A. Dr. Ritchie came in to see me. He did not make an examination of me.

10 Q. Do you remember Dr. Seward Marsh?—A. Yes, I remember him coming.

Q. Before he came did Dr. Bell say anything about him coming?—A. No, not until the fourth or fifth day I was in the hospital. I told Dr. Bell that the wall of pus had been cleaned out of my throat. So he suggested then that I see Dr. Marsh. Dr. Marsh came.

His HONOR : He is a throat specialist?—A. Yes.

Mr. HARDWICK : Had you been having any treatment for the five days you were there?—A. Yes. I do not know the treatment, but it was very severe. There was something in my drinking water that I thought was chloride—it burnt my throat terribly—and they gave me tiny little tablets at night-time which were cruel—they were certainly severe.

Q. Did it have the effect of cleaning the pus from your throat?—A. Yes. (Objected to : admitted.)

Q. You were telling us what effect the treatment had on your throat, and you passed that information to Dr. Bell?—A. I told Dr. Bell that my throat was cleaned of all pus. He said right away that I should see Dr. Marsh, that he was the senior throat specialist and he knew he was quite a good man. Dr. Marsh came during that day. He made an examination of my throat. He did not say anything to me.

30 Q. After this treatment that you had was your face improving?—A. Yes.

Q. And was your condition improving?—A. Yes.

Q. Did you have any more of these tetany spasms?—A. No.

Q. After the 2nd October, when you had this violent fit of coughing, did you still take injections?—A. I had one. Dr. Cooper advised me to have one injection of paroidin before I left home to go to St. Luke's Hospital.

Q. Did you have any tingling or spasms?—A. Not to speak of—not as serious as before. I have never had one since.

40 Q. Was there not another doctor who came in and took a blood test?—A. Yes, he came and took the blood test. That was Dr. Hansman. Dr. Bell said he wanted a blood test. Before Dr. Hansman came I had been there several days from memory.

His HONOR : Do you know what they expect to find out with blood tests?—A. Yes.

Q. I am sure I would not?—A. I did not know what they wanted this blood test for on this occasion. I know what blood tests are taken for in a way.

Mr. HARDWICK : What is your idea—I do not know—it might be 50 for many reasons?—A. Yes.

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Q. There is one matter I want to go back to that I missed in the story. Do you remember relating a happening when you were in Quirindi Hospital the first time, how you turned your neck and felt something sticking in it and some bleeding started in the opening?—A. Yes.

Q. Did you notice any similar sensation in your neck?—A. Yes, that occasion I could feel something in my neck. I thought it was a sinew or something—it was on the left side of my neck. I noticed it a good many times.

Q. Since this happening on the 2nd October is there anything in the side of your neck that you can point to?—A. There is the impression in 10
my neck on the left side.

Q. Is that where you felt this what you thought was something hard?—A. Yes.

Q. After you left St. Luke's Hospital you went to Manly for a little while—how long did you stay there before you returned home?—A. Several weeks, I suppose.

To Mr. HARDWICK: During that period my throat or neck was gradually becoming normal, the swelling was going down. Pus was coming out occasionally into my mouth and after that it would stop and then I would have an abscess. I would have an ache in the side of my neck. 20

This ache first happened after I went back to Quirindi. I felt an ache in the side of my neck. I did not know what it was I was getting, I thought it might be neuralgia. I felt a lump on the inside of my face, inside the mouth, and I had a look and it was very inflamed, the mouth inside and the tonsil. It came to a white head on it and it burst. I pressed the pus out of it with a swab of cotton wool, cleared my tongue, and then it would gradually clear up, go away for several weeks and return again. I would get another abscess and it went on like that for some time and then Dr. O'Hanlon came along one day and I had just had an abscess several days before. So I told him about it and he told me 30
what to do to get the pus out. He put my thumb like that (indicating) and told me to push upwards to get rid of the pus.

To His HONOR: I had this abscess after I returned from St. Luke's Hospital. I left St. Luke's Hospital on 2nd November and it was round about late in December 1939 and from then onwards. The last time there was any sign of any discharge coming from this region I should say was round about April.

To Mr. HARDWICK: I remember coming down to Sydney in the Easter following and seeing Dr. Bell. It had not altogether cleared up by that time. I came down to Sydney at Easter 1940 and my husband 40
came with me. My husband and I went and saw Dr. Bell. Dr. Bell asked me had I come down for the show. I said "Yes," and he asked me was that all. I said "No," that I wanted to know what he was going to do about the drain. He said he did not leave the drain in my throat and I said he did. He said if I was going to speak that way, I had better see my solicitor. And then he asked me did I see Dr. Ritchie. I said no, I had not seen Dr. Ritchie, so he told me to see Dr. Ritchie and I went and saw him.

Q. You remember your husband having some discussion with him about something in your mouth?—A. Yes, my husband asked him what 50

was the scar on my throat, on the tonsil, and Dr. Bell said it was caused by a large knot.

Q. Had you yourself at any time seen a scar on the tonsil?—A. Yes. I did not see the scar on my tonsils until after I had returned home from leaving St. Luke's Hospital, soon after being in St. Luke's the last time. At home I had to paint my throat regularly under Dr. Marsh's prescription. It was then that I saw the scar on my throat.

After this happening on 5th October and Dr. O'Hanlon's visit on 6th October, I went to Quirindi Hospital to have an X-ray at Dr. O'Hanlon's suggestion. Since these abscesses I have not had any trouble at all.

His HONOR: How did you come to have this operation for the thyroid condition? Had you been very ill?—A. I was not very sick but I was ill. My heart was the trouble.

Q. I notice that you said you went into St. Luke's Hospital on the first occasion on a date in February and you were not operated on till some time in March?—A. I was under observation for about three weeks.

Cross-examined:

Mr. REIMER: I suppose you have a clear recollection of having given evidence before?—A. I have a clear recollection of giving evidence, yes.

20 Q. And in this court, standing in that box?—A. Yes.

Q. And I suppose you have had an opportunity of reading that evidence since?—A. No.

Q. You have not looked at it at all?—A. No.

Q. And it has not been shown to you in any shape or form?—A. No, I have not read the evidence.

Q. Do you realise that the account you are giving to-day is a very different type of account to what you have given before (objected to).

Q. Do you realise that the account you have given to-day is different from the account you have given before?—A. No.

30 Q. And do you honestly believe you have given the same evidence on this occasion as you gave before?—A. Yes.

Q. I suppose you have discussed this matter with your husband quite a lot since the last hearing?—A. No, very little.

Q. Have you discussed the various events that have happened?—A. No.

Q. For instance, you have not discussed what took place on the 2nd or 5th October?—A. No.

Q. And I suppose it means you have not discussed it with anybody else other than your legal advisers?—A. That is right.

40 Q. You have not discussed it with anybody?—A. No.

Q. Nothing about the case at any time to any person?—A. No.

Q. You realise of course that this account you have given us to-day is an account which, if true, involves a very serious charge against Dr. Bell?—A. Yes.

Q. You realise it is a serious matter you are bringing forward?—A. Yes.

Q. And you are serious in bringing the matter forward?—A. Yes.

Q. Before this operation was performed, as you mentioned a little while ago you were a fairly sick woman?—A. I was not well.

50 Q. You knew what was the matter with you?—A. No.

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Q. You had no idea?—A. No.

Q. Did you know you had a goitre?—A. No.

Q. You did not know you had an enlarged goitre on your throat?—

A. No, I did not have an enlarged throat.

Q. It was not enlarged at all?—A. No.

Q. Did you not have any kind of a swelling at all?—A. No.

Q. None whatever?—A. Well, not noticeable, not that I noticed.

Q. As far as you were concerned, you did not know you had an enlarged thyroid, or what is commonly called a goitre?—A. I did not have an enlarged goitre. 10

Q. Did you know what the operation was for?—A. I think Dr. Bell told me.

Q. Whoever told you, did you have any idea what the operation was for?—A. Yes.

Q. Who told you?—A. Well, doctors told me.

Q. What—before the operation?—A. I understood what the operation was for.

Q. Now look. You are a sick woman. You come all the way down from Quirindi to Sydney to go into hospital in the hands of a very eminent surgeon. You know that Dr. Bell is an eminent surgeon?—A. Yes. 20

Q. And your husband decided to have as your surgeon the best surgeon he could get in the State?—A. No, I did not think him the best surgeon.

Q. You knew Dr. Bell was a very eminent and well known surgeon?—A. Not at that time.

Q. You know now?—A. Dr. Ritchie recommended him.

Q. At all events, did you know when you went and saw Dr. Ritchie and Dr. Bell what the operation was going to be for?—A. I did not really understand the operation.

Q. I did not ask you that. Did you or did you not know that the operation was for the removal of your thyroid gland?—A. Yes. 30

Q. Who told you that?—A. I could not say who told me.

Q. Did you know that that was probably what was going to happen to you before you came down to Sydney?—A. No.

Q. You had no idea it was a matter that might be the subject of operation at all?—A. No, I had not.

Q. It had not been discussed between you and Dr. O'Hanlon?—A. No.

Q. This tube that you subsequently saw 18 or 19 months after the operation has been described by you on a number of occasions?—A. Yes.

Q. You told us something about it to-day and you have supplied 40 particulars in the action about it?—A. Yes.

Q. I mean, your solicitors gave details to Dr. Bell's legal advisers as to the details of this tube?—A. Yes.

Q. And you have drawn a sketch?—A. Yes.

Q. First of all, that sketch you have drawn is approximately the correct size?—A. I did not draw that to any exact size.

Q. Is it approximately the correct size?—A. It is larger than what I saw.

Q. Is it very much larger or is it approximately the right size?—A. Not so very much larger. 50

Q. This tube you say you saw was about two inches long and you picked it out of this chamber?—A. Yes.

Q. It was two inches long and it had a straight cut down one side ?—
A. Yes.

Q. How far did that straight cut go down—about three-quarters of the way, half the way or what ?—A. How do you mean, go down ?

Q. You said it had a straight cut in it. How much of the two inches of tube you say you saw had a straight cut ?—A. There was about half an inch that was not cut.

Q. And of course, as far as you could judge it was clearly a cut that you saw ?—A. Yes.

10 Q. That is something that had been cut with a knife or scissors or something like that ?—A. Yes.

Q. And only on one side ?—A. That is all I noticed.

Q. And the cut went right up the balance of the length of the two inches ?—A. Yes.

Q. So that the cut would be anything from an inch to 1½ inches long ?—A. Yes.

Q. And inside that there was placed what you describe a swab or a piece of marine sponge. That is your own description, is it not ?—A. Yes.

20 Q. What gave you the idea that it looked a piece of marine sponge ?
—A. Just because it looked like it.

Q. I mean, it was soft and oozy, porous ?—A. Yes.

Q. Like little holes in it, I suppose ?—A. Yes.

Q. And from the centre of this swab or sponge there were two pieces of wire sticking out ?—A. Yes.

Q. One piece of wire went beyond the end of the 2-inch rubber by a distance of one inch ?—A. No, not an inch. It was a little longer than that. One piece of wire was longer than the other.

Q. And the one piece of wire protruded beyond the rubber by about an inch and the other was a bit shorter ?—A. Yes.

30 Q. Look at Exhibit D. That is your sketch. I am putting to you that the one piece of wire that protrudes out beyond the end of the rubber was about an inch or more above the top of the rubber ?—A. It was not an inch, about ¾-inch.

Q. About ¾-inch beyond the top end of the rubber ?—A. Yes.

Q. And the other was a little bit shorter ?—A. Yes.

Q. You might take these pieces of rubber and pick out what you say was approximately the same size and diameter as the piece you allege you saw ?—A. I think that is the nearest. (Indicating.)

40 Q. It has got the number, 13. Here is No. 12. What do you say as to that ?—A. That is just about the size. Of course it had a swollen appearance.

Q. I will ask you about that later. You think that No. 12 more represents the size than No. 13 ?—A. Yes.

Q. Would you say No. 11 is too small or not ?—A. Yes, it is a little smaller.

Q. So that it is something bigger than No. 11, and you think No. 12 is the right size ?—A. It is the nearest.

Q. I take it it might be either 12 or 13 ?—A. No, it is not 13.

Q. You are satisfied it would be No. 12 ?—A. That is the nearest.

50 (Three pieces of tubing added to m.f.i.1.)

Q. The piece you say you saw was grey ?—A. Yes.

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Q. And the piece you saw Dr. Bell take in his hand was a darkish grey?—A. Almost black.

Q. It was certainly not red rubber?—A. No.

Q. And the piece you saw in Quirindi in your commode was not red rubber?—A. No.

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Q. The piece that you saw in Quirindi gave to your impression a different appearance from the piece you had seen in St. Luke's Hospital?—A. Yes.

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Q. You thought it was a different size from what you had seen in St. Luke's Hospital?—A. Yes. 10

Q. And you explained that by saying that the piece you saw in Quirindi might have been a bit blown out?—A. Yes, it had a swollen appearance; it was soft.

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Q. When you saw this piece of tube, of course you knew exactly what had happened according to your idea, you knew where the piece of tube had come from when you saw it?—A. Not exactly.

Q. When did you first make up your mind that this piece of tube you saw in the commode had come from the operation?—A. A while after I saw it, I suppose.

His HONOUR: You mean the same day?—A. Yes. I was really 20 very ill. It would be the same day or round about.

Mr. REIMER: So that you knew on 5th October that according to your idea this piece of tube had come from the site of the operation?—A. I thought it must have done.

Q. In other words, you are of the same opinion to-day as you were then?—A. Yes.

Q. I mean, that is the whole basis of your present claim!—A. Yes.

Q. And you knew therefore on 5th October 1939 that Dr. Bell, according to you, had left this portion of tubing as you call it in the site of your operation?—A. Yes. 30

Q. You have given a description here to-day about Dr. Bell's removal of the tube and this is what you said, correct me if I am wrong. You say he got hold of it in the side of your neck and fiddled with it a bit. He then gave it a little pull. He then put his hand on your forehead and pulled it out?—A. Yes.

Q. That is a different account from what you have given before, is it not?—A. No.

Q. Is this not what you said, that he took his bare fingers and thumb and gave three pulls?—A. I do not remember about the three pulls.

Q. Or two or three pulls. You described in the box, standing there, 40 how he went two or three times and pulled. Do you remember describing that by putting your hand up and showing how he pulled?—A. No, I do not remember.

Q. Do you remember describing how he put his hand on your forehead and pulled it out like that?—A. No, I did not make such a gesture as throwing my arm out like that (indicating).

Q. Do you deny that you said that on the previous occasion or not?—A. I deny throwing my arm right out.

Q. You deny you pulled your arm well up, indicating a powerful jerk?—A. Yes. 50

Q. Which is your more powerful hand?—A. My left.

Q. Can you grip that really tight?—A. Fair.

Q. Now close your hand on it, pull that out, break it?—A. It has not got a cut in it.

(Further hearing adjourned to 10 a.m. Thursday, 13th August, 1942.)

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No. 3 CAUSES :

Coram : HERRON, J., and a Jury
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PLAINTIFF :

Further cross-examined :

Mr. REIMER : I showed you certain rubber tubes yesterday, and you told me that a piece that you could judge as near as you could was the size you say you saw was No. 12—it was bigger than No. 11, and you thought smaller than No. 12.

(Pieces of rubber shown to witness.)

The largest piece there would be that one? (indicated)—A. Yes.

Q. You notice that is No. 20?—A. Yes.

(Piece of rubber No. 20, m.f.i. "1.")

20 Q. When you were at St. Luke's Hospital and you say Dr. Bell tried to remove this tube, you told us you saw a piece between his thumb and fingers?—A. Yes.

Q. Is it correct that he put this thumb and fingers on the piece of tube which was in your neck?—A. Yes.

Q. Had you any idea how much of the tube was protruding from your neck?—A. No.

Q. The amount that you saw was about half an inch?—A. Yes.

Q. Have you got any idea how much was between his fingers?—

A. No.

30 Q. No idea?—A. No.

Q. The piece you told me you saw in Quirindi was two inches long?—About two inches long—I did not put the measure on it.

Q. And the piece you saw in Dr. Bell's hands was at least half an inch?—A. Yes, it was at least half an inch to three quarters.

Q. (Demonstrating with tube and measuring ruler.) That is the piece that you showed?—A. Yes—a good half inch.

Q. I am going to cut off about three inches (done)—You say that this tube that you saw had a straight cut down one side?—A. Yes.

Q. And there was about half an inch that was not cut?—A. Yes.

40 Q. (Mr. Reimer splits part of piece of tube with scissors.) Would that be approximately right?—A. About that.

Q. According to you the wire and the swab or sponge, as you call it, was protruding out from the cut end that way (demonstrating):—A. Yes.

Q. So that the straight cut in, according to your idea, would be the end that was within your neck—the piece that was in your throat in St. Luke's would be the piece that was cut straight. (Objected to.)

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His HONOR : You may ask whether she had any belief about it.

Mr. REIMER : If it is objected to I shall have to approach it slowly.

Q. Do you suggest that the wire was poked into the tube from the inside of your neck, or from the outside of the neck ? (Objected to.)

His HONOR : As a matter of pure law you cannot ask a person about something not within their own knowledge, but, as a matter of practicability, I suppose the lady was very sick at the time and I do not suppose she would know. I really do not think you can put it that way ; you can ask whether she formed any belief from what she saw, but you cannot ask the witness whether in fact these things were so. 10

Mr. REIMER : The piece of swabbing and the two pieces of wire were protruding out the cut end ?—A. Yes.

Q. When I asked you yesterday to feel the strength of these you commented that the piece I asked you was not cut ?—A. Yes.

Q. Will you try and break that any way you like (piece of rubber handed to witness) ?—A. I cannot break this.

Q. Will you try ? (Witness demonstrates.) I think a man could.

Q. Is that the hardest you can pull ?—A. Yes.

Q. You say that the total length of the piece you saw was about two inches (Mr. Reimer cuts off two inches of tube)—about that ?— 20
A. Yes, about that.

Q. That is approximately the size ?—A. Yes.

Q. And the top end of where the cut is was serrated ?—A. Yes.

Q. As you have shown in your drawing, Exhibit " D " (handed to witness) ?—A. Yes.

Q. The piece of swab or material that was in it according to you forced the cut end to expand like that (demonstrating) :—A. Yes—slightly.

Q. It was opened up ?—A. Yes.

Q. And the two pieces of wire were coming out at an angle as you have drawn there approximately —A. Approximately, yes. 30

Q. And the two pieces of wire and the swab were opening up the cut end ?—A. Opening up the cut end ?

Q. Opening it like that (demonstrating) ?—A. The swab had it pressed in that position.

Q. Pressed in so as to make the cut open out ?—A. Yes—it appeared to.

Q. (Demonstration—Pieces of wire covered with cotton wool and inserted into cut tube.) One of these pieces of wire protruded about an inch beyond the top end of the rubber ?—A. Yes—about an inch.

Q. The other one was a little bit shorter ?—A. Yes. 40

Q. About there (indicated) ?—A. A little shorter than that.

Q. About there ?—A. Yes.

Q. (Object handed to witness) : Is that a fair representation of the thing you saw ?—A. It would give one an idea.

Q. Is that a fair representation of the thing you saw ? (Objected to as already answered.)

His HONOR : You mean it is a rough representation of what you saw ? —A. Yes.

Mr. REIMER : And the two pieces of wire that you saw were separated so as to give that sort of " V " appearance at the top ?—A. Not quite as 50
much as that—just slightly separated.

Q. Just slightly separated as you have got it in the drawing?—A. Similar to the drawing.

(Object made by Mr. Reimer as above m.f.i. "2.")

Q. Can you suggest in any way where that object I have shown you just now substantially differs from what you say you saw? (Objected to as attempt to get a different answer from that already given—admitted.)

Q. Is there anything about that that you would like to suggest is wrong, as giving a fair representation of what you say you saw?—A. Yes, it is a fair representation; but it is much stronger than what I saw.

10 Q. How do you know that?—A. The rubber was very soft.

Q. Soft, because you squeezed it?—A. Yes.

Q. But you did not try to break it, or anything like that?—A. No.

Q. According to you an object of approximately that size of that description was inside your neck for 18 or 19 months?—A. Yes.

Q. And you say that Dr. Bell when he tried to remove the tube broke a piece off, leaving that behind?—A. Yes.

Q. You first realised this tube in your neck some time after the operation—you first realised there was a tube there some time after the operation?

20 Mr. HARDWICK : The drainage tube?—A. The drainage tube.

Mr. REIMER : The drainage tube that was in your neck in St. Luke's Hospital—you first became aware of that some time after the operation?—A. I heard Dr. Bell—

Q. Would you please answer the question. Did you ever become aware that there was a tube in your neck in hospital?—A. Yes.

Q. That was some time after the operation?—A. Yes.

Q. You told us yesterday that you first realised it was there the day after the operation?—A. Well, it was not the day of the operation.

30 Q. Do you remember saying yesterday that it was the day after the operation?—A. Round about the day after the operation.

Q. Do you remember saying on a previous occasion that you never knew about that being there until three days after the operation?—A. I do not remember that.

Q. You will not deny that you may have said that on a previous occasion?—A. I do not know the exact day that I noticed it.

Q. I am not asking that. Are you prepared to admit that you swore on oath on a previous occasion that you first were aware of the drain three days after the operation; and that an attempt was made to remove it five days after the operation?

40 Mr. HARDWICK : I have page 7 of the original transcript, and this is what she said—

His HONOR : She is being asked whether she can remember it?

Mr. HARDWICK : The basis of the question is a wrong statement.

Mr. REIMER : I withdraw the question, and I do not want any interruption at this stage.

Mr. HARDWICK : I am addressing His Honor.

His HONOR : The question has been withdrawn; and Mr. Reimer may go to the next question.

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Q. Did you know that you had a drainage tube in your throat or did you only hear Dr. Bell say that he was going to put one?—A. No, I knew there was a drainage tube, from hearing the nurses speak about it.

Q. You did not see it?—A. No.

Q. You had no idea what it looked like?—A. No.

Q. How long did you think a drainage tube would be?—A. I had no idea; and I still have no idea.

Q. You really never saw this thing in your throat at all?—A. No, I never saw it in my throat.

Q. I suppose you were very sick at the time?—A. Yes, I was very ill. 10

Q. You did not take much notice of what was going on either?—
A. No, I was really very sick.

Mr. REIMER: I have withdrawn the question, but Mr. Hardwick referred to page 7 of the previous transcript. Do you remember saying this on a previous occasion; you were asked:—

“Q. Do you remember some few days after the operation what your condition was, and appearance—how did you appear?—A. I was very swollen around the neck and face.”

—A. Yes.

Q. That is right, is it?—A. Yes. 20

“Q. How did you know that?—A. It felt very tight and uncomfortable. By feeling it I could tell it was swollen.”

Do you remember swearing that?—A. Yes.

Q. Is that correct?—A. Yes.

Q. At page 27 do you remember being asked this:—

“Q. When did it first become present to your mind that a piece of tube for drainage purposes had been inserted in the wound?
—A. When the nurses were dressing my neck.

Q. The same day as the operation?—A. No.

Q. The next day were you told by the nurse when she was 30 dressing it?—A. No.

Q. When?—A. It may have been several days afterwards.

Q. What does that mean—what does ‘several’ mean—how many?—A. Three days.”

Mr. HARDWICK: That was cross-examination by Mr. Monahan.

Mr. REIMER: I will proceed:

“Q. Were you not conscious of the fact that a pretty wide safety pin had been stuck through the tube and fastened so as to prevent the tube from moving?—A. No.

Q. And you say that about three days after the operation you 40 were told by a nurse that the tube had been inserted?—A. No, the nurse did not tell me that the tube had been inserted, but I knew from the treatment I was receiving that there was a tube there.”

And in answer to the trial Judge, page 28:

“Q. Could it have been the second day?—A. It was longer.

Q. You think that first of all you became aware of the presence of the tube and you think it was a day or two after that that it was taken out?—A. Yes, it is very hard to remember.”

I suppose you admit you gave the evidence I have read?—A. Yes.

Q. Is that correct or not?—A. As far as I can remember, it is correct. 50

- Q. When Dr. Bell attended to you he had a nurse with him ?—
A. Yes.
- Q. Have you any recollection of anybody who was on the staff at St. Luke's at the time ?—A. Yes.
- Q. Tell me whom you remember ?—A. Dr. Bell had Sister Ward with him at the time.
- Q. At what time ?—A. When the drain broke.
- Q. Not Sister Will ?—A. No, Sister Ward.
- Q. What time of the day was it ?—A. I do not know the time.
- 10 Q. Morning or night ?—A. It would be before lunch, I think ; I have no idea of the time.
- Q. You had at that time a night special in attendance ; do you remember that ?—A. Yes.
- Q. Do you remember her name—Sister McEwan ?—A. Yes.
- Q. She used to leave you somewhere about half-past 7 or 8 o'clock in the morning ?—A. Usually.
- Q. Would it be before or after Sister McEwan left that this occurrence took place ?—A. After.
- 20 Q. When Dr. Bell came in that morning you say he had Sister Ward with him ?—A. Yes.
- Q. You are quite sure about that ?—A. I think that was her name—I am not sure that that was her name.
- Q. Would you know her if you saw her ?—A. I may—in uniform.
- Q. Do you remember Sister Will ?—A. No.
- Q. The nurse who was in charge of the floor at the time ?—A. No, I do not remember. (Question objected to.)
- His HONOR : I suppose you mean by " Sister " Ward that she was an experienced nurse ?—A. She appeared to be an experienced nurse.
- 30 Q. When you use the word " Sister " that indicates that she was a trained nurse ?—A. Yes.
- Mr. REIMER : According to you Dr. Bell did not have any gloves on his hands ?—A. No.
- Q. He used no forceps or tweezers or anything to pick this thing ?—
A. No.
- Q. And he used his bare thumb and fingers ?—A. Yes, his bare fingers.
- Q. You have told us yesterday the description, you say, of the removal of the tube as near as you can remember ?—A. Yes.
- Q. He, of course, had difficulty, according to you, in removing the tube ?—A. Yes.
- 40 Q. Am I correct in assuming that he put his hand on your forehead for the purpose of keeping your head rigid ?—A. Yes.
- Q. In other words, to get a leverage for the purpose of pulling this tube ?—A. Yes.
- Q. That would be correct—that is your interpretation of it ?—A. Yes.
- Q. In other words, he put his hand on your head in order to keep it rigid in order to get an anchorage to pull the tube ?—A. Yes.
- Q. Do you remember on a previous occasion saying this with regard to the removal of the tube ?—Page 7 :—
- 50 " About five days after (the operation) he said he was going to loosen the stitches and remove the drain because the drain was not working properly ? "
- A. Yes.

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Q. Now, according to you, the drain was on the right-hand side?—
A. Yes.

Q. Nowhere near the point where you subsequently had the discharge?—A. It was not where I had the discharge.

Q. Show me where you say the drain was in your neck? (Witness indicates right side of centre of throat.)

Mr. HARDWICK: There is a mark there which medical gentlemen will tell.

Mr. REIMER: Show me where it is. (Mirror handed to witness.)
—A. Not with this mirror—I cannot see with this.

His HONOR: Is there any mark there now to indicate where it was?—A. Yes.

Mr. REIMER: That was a magnifying mirror—the lady may not be used to that. (Folding mirror handed to witness.)—A. About there. (Indicating base of neck on right side.)

Q. Where do you say the discharge came from?—A. About there. (Witness indicates right-hand side of centre of base of neck.)

Mr. REIMER (measures distance between the two points with ruler). A little over an inch.

(Mr. Hardwick objects to Mr. Reimer stating the distance—admitted 20 as apparently fairly accurate.)

Q. Have you at any time examined the hospital records?—A. No.

Q. Do you know as a fact that there is an entry in the hospital records with respect to the removal of this drain? (Objection to “as a fact.”)—(Objection upheld.)

Q. Do you remember on a previous occasion the hospital records being before the court?—A. Yes.

Q. You were asked certain questions with regard to the entries in those records, and you heard other witnesses being cross-examined on them?—A. Yes.

Q. You remember an entry being mentioned which refers to the removal of the tube?—A. Yes.

Q. When Dr. Bell removed this tube, according to you, did you say this on a previous occasion—reading from where I stopped before:—

“Q. You might just describe to the Court what happened.

—A. Dr. Bell tried to remove the drain. He pulled a couple of times very hard. Then he put his hand on my forehead and pulled hard and the drain came out, as I thought, and he said ‘Damn’ and I said ‘Oh.’ It was stinging my throat, and he threw it into the tray and he and the sister went out. Q. Did you have an opportunity of seeing what it was that he did?—A. I saw a little black thing between his fingers.”

Is that a correct description of what took place?—A. As near as I can remember.

Q. On your story are you prepared to admit that if that piece of tube with the wire was there in your neck and a piece of tube was broken off, that Dr. Bell must have known that the tube broke?—A. I do not know.

Q. Are you prepared to admit that or not?—A. I do not know.

Q. You have no idea whether he would know or not?—A. No.

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Q. Did Dr. Bell look at the piece that he took out?—A. Yes.

Q. And of course Dr. Bell was the surgeon who had operated on you?—A. Yes.

Q. So that Dr. Bell ought to know exactly what had been put in the wound?—A. Yes.

Q. And he ought to know whether or not the whole of the drain tube had been removed?—A. Yes.

Q. And, according to you, no attempt was made at any time to look for or to remove the balance of this tube that you suggest was left behind.

10 (Objected to as not within witness' knowledge.)

His HONOR: I think Mr. Reimer means there was no probing nor any operation or cutting.

Mr. HARDWICK: She gave evidence of probing.

The WITNESS: There was probing.

Mr. REIMER: You said the wound was probed?—A. Yes.

Q. That was done by Dr. Bell?—A. Yes.

Q. Do you know how many times it was done?—A. Every day.

Q. For how many days, approximately?—A. Until I left the hospital.

Q. Until you left the hospital, practically every day?—A. Dr. Bell
20 dressed my throat every day, until I left the hospital.

Q. How often was the wound probed, according to you?—A. I do not remember.

Q. Have you ever seen a probe?—A. I have seen an instrument in the doctor's hands, or the nurse's hands.

Q. Would you recognise one if you saw it?—A. I may.

Q. (Instrument handed to witness) Is that the sort of thing that was used when you say the wound was probed?—A. I have noticed Dr. O'Hanlon with the same probe as that.

Q. Is that the same type of thing that you say Dr. Bell used?—A. No,
30 I cannot say I saw Dr. Bell with that.

Q. Have you noticed him with anything different from that?—
A. Yes.

Q. When he was probing?—A. Sister did the probing.

His HONOR: Tell me whether or not you ever saw Dr. Bell after that day on which you say the tube came out; doing anything with any instrument of any sort in your throat?—A. Yes, he did on rare occasions—he would pick out my throat—but the sister in attendance did the picking.

Q. I was asking about Dr. Bell—did he ever do anything at all after the day the tube was taken out?—A. No, I do not remember him using an
40 instrument of any sort—he may have—but I do not remember.

Q. The picking you speak of was by a sister with some forceps?—
A. Yes.

Mr. HARDWICK: Yesterday she said what Dr. Bell did while the sister was doing it.

His HONOR: Yes, but I did not want any confusion between what he does with his fingers and with an instrument.

Mr. REIMER: That is all you remember Dr. Bell doing in connection with your wound or scar after the occasion when you say he tried to remove the tube?—A. Yes.

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Q. When Dr. Bell removed this tube you were a very sick woman ?
—A. Yes.

Q. And whether it was two days after the operation or, as you apparently thought at one time, five days after the operation, your whole neck and wound was very tender ?—A. Yes.

Q. And was raw—it had not healed up ?—A. Well, Doctor said it was healing very quickly.

Q. Yes, but it was not healed at the time ?—A. No.

Q. You had bandages over your wound ?—A. Yes.

Q. And you had sand bags on either side of your head to keep your 10
head firm ?—A. No, I never heard of sand bags.

Q. You had no recollection whether or not your head had sandbags
on either side or not ?—A. No.

Q. Or anything else to keep your head straight ?—A. No.

Q. When Dr. Bell put his hand on your forehead I suppose you were
lying down ?—A. No, I was sitting up.

Q. So he put his hand against your forehead like that, and pulled
sideways (demonstrating) ?—A. Yes.

Q. Was there any hæmorrhage—any bleeding ?—A. I could not
tell you. 20

Q. Did you know of any bleeding at all ?—A. No.

Q. You were not taken back to the theatre and had the wound
restitched, or anything ?—A. Not that I am aware of. I lost
consciousness just after that.

Q. You have never mentioned that before, have you ?—A. I may not.

Q. Do you suggest that you have—at any time either in this court—?
—A. Oh, yes.

Q. That you lost consciousness in St. Luke's Hospital when Dr. Bell
removed the tube ?—A. Not immediately.

Q. When—about half an hour afterwards, or what ?—A. After 30
Dr. Bell and the sister went out the theatre sister came in, and after that
I do not know what happened.

Q. Who was the theatre sister ?—A. I think her name was Nurse Judd,
but I am not sure.

Mr. REIMER : Mr. Hardwick, I want to ask this lady some questions
about the hospital records—do you want me to use the originals, or are
you prepared to use the copies ?

Mr. HARDWICK : I do not mind the copies that were used last time
and finally tendered as exhibits.

Mr. REIMER : I can assure you that the copies I have here are exact 40
copies, and, if necessary, I will adduce evidence to prove it.

Mr. HARDWICK : Why not use the others at the present time ?

(Copies of Hospital Records obtained from His Honor's Associate
and handed to witness by Mr. Reimer.)

Mr. REIMER : What happened to your head when Dr. Bell pushed
your forehead with his hand ; did it go back or what ?—A. It just pressed
against the pillow.

Q. So your head was leaning against the pillow ?—A. Yes, pressed
back against the pillow.

Q. And that was at the head of the bed ?—A. Yes.

Q. Was the pressure on your forehead fairly solid ?—A. It was firm.

Q. So your head was quite rigid at the time—it was held firmly ?—
A. Yes, it was held firmly.

Q. You see the entry there, 17.3.38—Day report of 17th March 1938 ?—A. Yes.

Q. “ Dr. Bell here a.m. Tube removed.” (Objected to.)

Mr. REIMER : I want to ask whether that is a correct record according to her. (Objected to.)

10 His HONOR : The most you can do is to ask her whether she can recollect certain details, but you cannot put to her whether she agrees with this hospital record or that it is an accurate one.

Mr. REIMER : With respect, I can ask whether that is a correct record of her condition that day, irrespective of whether it is a hospital record.

His HONOR : You may ask her whether those details contained in some document are, in her recollection, correct. There is a difference between the two things.

Mr. REIMER : I take it your Honor rules against me ?

20 His HONOR : Yes, definitely ; but I am not preventing you asking her whether details you prefer to read of her are accurate or not.

Mr. REIMER : You have read that entry there ?—A. Yes.

Q. You notice there is a reference there to removal of the tube and certain sutures ?—A. Yes.

Q. And you see it is followed by the words “ Condition good ” ? (Objected to as transgressing ruling ; disallowed.)

Q. Do you dispute that your condition was good on that day ?—
A. Well, I was a long way from well.

30 Q. Having regard to your general condition at the time do you suggest that that would be a correct or incorrect way of describing your condition ? (Objected to as embodying what the writer meant by “ good.”)

His HONOR : If a person is seriously ill and her condition is good for that condition, they would write “good ”—it is difficult to know how much the witness would be expected to know of that state of affairs.

Mr. REIMER : Did you make any complaint on that day as to the man-handling or treatment that you had got from Dr. Bell ?—A. No. (Objection to “ man-handling.”)

His HONOR : The jury would not pay attention to the word.

40 Mr. REIMER : Would you regard the treatment you got from Dr. Bell as man-handling or not ?—A. No.

Q. Would you regard it as very improper treatment on the part of a surgeon or not ?—A. I did not know.

Q. Was it the sort of treatment that you expected or not ?—A. I was not expecting anything.

Q. Is that all you can say ?—A. I do not know.

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Q. Did you think it was a natural way to treat a patient?—A. I did not know when doctor had difficulties.

Q. You did not consider it extraordinary or unusual or alarming that a doctor should remove a tube by making two attempts to pull it hard, and failing, and then putting his hand on the forehead and pulling it out—did you think that extraordinary?—A. I never had an operation before.

His HONOR: I suppose you mean you would not know one way or the other?—A. No, I would not.

Mr. REIMER: At the time it did not strike you as something which 10 you regarded as unexpected or alarming or worrying to you at all?—A. I don't think I worried very much, I was far too ill.

Q. You made no complaint or mention of it to anyone in the hospital?—A. I don't remember.

Q. Do you remember making any complaint to Dr. Bell, or commenting on it to Dr. Bell or Dr. Ritchie?—A. I don't remember.

Q. Or any of the nursing staff at St. Luke's Hospital?—A. I don't remember it.

Q. Did you mention it to your husband?—A. Yes, but I could not say just when. 20

Q. How long after it happened did you mention it first?—A. It may have been that day and it may not have been for a day or two, but it was while I was still in the hospital.

Q. Did you describe to him in detail exactly what had taken place?—A. Yes.

Q. Did you think at the time that there was anything left in your neck?—A. No.

Q. You did not feel the thing break in any way?—A. I felt my throat stinging.

Q. But you did not feel the thing flip back like rubber would?—A. 30 That is the stinging sensation I am trying to describe.

Q. Do you suggest that you felt the rubber flip back on to you?—A. I felt something stinging but I did not know it was rubber.

Q. You had undergone a very, very serious operation only two days before?—A. I know that.

Q. And you know that that operation entailed, amongst other things, the opening up of the whole of the internal part of your throat?—A. I know it now, but I did not know it before.

Q. Do you suggest that the stinging was anything other than the natural soreness of your wound?—A. Yes. 40

Q. What do you suggest it was?—A. I don't know.

Q. I thought you said you were suggesting it was something else than the natural result of the operation?—A. I did not know what it was.

His HONOR: Rightly or wrongly, it had some relation to the breaking of a tube?—A. Yes, I think so now.

Mr. REIMER: You did not at the time think it was anything untoward?—A. No.

Q. On the 17th March you had no reason whatever to suspect that there was anything untoward in regard to your operation or the tube or the wound?—A. I knew there was something the matter but I did not 50 know what it was.

Q. At the time the tube was removed did you have any idea that there was anything untoward in regard to your scar or wound or operation ?
—A. No.

Q. You had seen nothing and felt nothing which suggested to your mind that you required some further medical attention in connection with the tube ?—A. I did not know the tube was there.

Q. I understood you to say that before this tube was removed you felt the tube on the side of your throat ?—A. I knew it was there.

10 Q. You could feel it in the sense that the tissues round it—what I mean is that it was obvious there was something there ?—A. Yes.

Q. And it was the piece inside that you could feel, not the piece that was outside ?—A. When the bandage touched round my neck I could feel that there was something.

Q. Did you feel it inside your wound ?—A. Not that I am aware of.

Q. After this occurrence, did you at any time in St. Luke's Hospital feel or think you felt the presence of a tube or anything like that in your neck with or without wires ?—A. I knew there was something the matter with my throat but I did not know what it was.

20 Q. Did you feel something which suggested to your mind the presence of a tube or any other foreign body in your neck while you were in St. Luke's Hospital ?—A. I could not say.

Q. Before you left the hospital, after Dr. Bell had taken it out did you feel anything which you thought related to a piece of tube in your throat ?
—A. No.

Q. Never at any time in St. Luke's Hospital after it was removed ?—
A. I did not feel the tube in my throat.

Q. Or anything else that might have been the tube ?—A. My throat was swollen and I could not say.

30 Q. Apart from that, did you feel the presence of any foreign body in your neck ?—A. No, I could not say that it was a foreign body.

Q. Did you feel something pricking you or sticking into you ?—A. I was very uncomfortable.

Q. Anything which suggested there was a lump there, or that you felt something in your neck when you turned it ?—A. My neck was discharging freely.

Q. Did you feel something which suggested the presence of a foreign body in your neck ?—A. No.

Q. According to you, when this discharge was evident, Dr. Bell put his hand round your throat ? A. Yes.

40 Q. Was that from the back towards the front, the fingers towards the front of your neck ?—A. I think the thumb was towards the front of the neck.

Q. At any rate, according to you, he squeezed your neck hard ?—A. Yes.

Q. On any of those occasions did you ever feel any wires sticking into your neck ?—A. I felt sharp pains.

Q. You have put needles into yourself when you have been sewing, I suppose ?—A. Yes.

50 Q. Do you agree that a needle or any sharp thing like that sticking into a raw wound would hurt a good deal more than putting it into your thumb ?—A. It may.

Q. Is that as far as you are prepared to go ?—A. Yes.

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Q. Did you ever feel anything as bad in the way of something sticking into you as when you put a pin or a needle into your thumb?—A. Not then.

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Q. And not when Dr. Bell put his two hands round your throat and pressed hard?—A. No, Dr. Bell pressed high above the wound, pressed downwards.

Q. On the previous occasion in regard to this matter, did you say "On several occasions Dr. Bell used to put his hands around my throat and press forward very hard?" That would be a correct description?—A. Yes. 10

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Q. And he was pressing over the wound, down towards the site of the wound?—A. Yes.

Q. You realise now that the leaving of a thing like that in your wound is something more than a mere accident? (Objected to; rejected.)

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Q. Something that a surgeon would necessarily know had happened? (Objected to; rejected.)

Q. At all events, do you believe that that tube could have been broken and that portion left behind without a person knowing it? (Objected to; rejected.)

Q. Do you think that that piece of tube which you have described 20 could have been broken without the person knowing it? (Objected to; admitted)?—A. I don't know.

Q. Do you think that a piece of tube of that dimension that we have there could have been left in your throat by a person conducting themselves in the way you say Dr. Bell did without that person being aware of it? (Objected to; admitted)?—A. I don't know.

Q. You realise at all events that in substance this is a charge against Dr. Bell of knowingly leaving this tube in your throat? (Objected to; rejected.)

Q. Before you brought this action you considered very carefully 30 just what you were charging Dr. Bell with? (Objected to; admitted)?—A. Naturally I thought about it.

Q. And you would not make the charge unless you really believed in it?—A. No.

Q. You are not in any way influenced by something that you are merely imagining?—A. No.

Q. Why did you charge your husband with attempting to poison you?—A. I did not.

Q. Didn't you say that he tampered with food?—A. No.

Q. Never at any time?—A. No. 40

Q. Did you ever suggest that someone had tampered with your food?—A. Yes.

Q. By that do you mean poisoned it?—A. I did not say poisoned it.

Q. Did you mean by that poisoned it?—A. Yes.

Q. And that is something that happened in your own home?—A. Yes.

Q. Did you honestly believe that someone was trying to poison you?—A. I thought the food was being tampered with.

Q. By that you mean that it was being poisoned?—A. I could not say that it was poisoned.

Q. Tampered with by someone putting some poison into the food? 50—A. Something into the food.

Q. Which you thought was being put there deliberately?—A. I don't know.

- Q. What do you mean tampered with?—A. That it was not as it should be.
- Q. And someone was putting something into your food to make it as it should not be?—A. Yes.
- Q. And do you suggest that they were doing that to do you some harm?—A. I don't know.
- Q. Did you think they were doing it for the purpose of doing you some harm?—A. I don't know.
- Q. Did you seek protection?—A. No.
- 10 Q. Never mentioned the fact of your food being tampered with to anyone?—A. To my husband.
- Q. Anyone else?—A. Yes, but I could not tell you just who.
- Q. Have you mentioned it to more than one person?—A. Not many people.
- Q. Tell me some of the people to whom you mentioned it, that your food had been tampered with in your home?—A. I just do not remember.
- Q. Can you tell me any person?—A. No.
- Q. Did you go to get protection from Dr. O'Hanlon?—A. No.
- Q. Did you tell Dr. O'Hanlon that your food was being poisoned?—
- 20 A. Not that I remember.
- Q. Will you deny that you did?—A. I don't know.
- Q. Will you deny it?—A. I do not remember telling Dr. O'Hanlon.
- Q. I am going to insist on an answer. Will you deny that you told Dr. O'Hanlon that your food was being poisoned or tampered with?—A. I may have.
- Q. You would not make a statement like that unless you believed it?—A. No.
- Q. And I suppose you realise that this was a very serious charge to make against anyone?—A. I did not make a direct charge.
- 30 Q. Do you realise that it is a very serious thing to say that your food is being poisoned or tampered with?—A. Yes.
- Q. You realise that that implies that someone is trying to do away with you, murder you?—A. I suppose so.
- Q. And you had that in mind at the time you told people about it?—A. I cannot say that I had.
- Q. What did you have in mind when you told people that?—A. Telling my experience, I suppose.
- Q. Your experience in your own home?—A. Yes.
- Q. At the relevant time when you were making this charge or accusa-
- 40 tion your daughter was at boarding school?—A. Yes.
- Q. There was no other person in the house but your husband?—A. No.
- Q. You do not suggest that you were poisoning or tampering with your own food?—A. No.
- Q. There is no one else but your husband?—A. Other people around.
- Q. Next door neighbours?—A. Yes, and tradespeople.
- Q. Do you mean to say seriously that you went to other people and complained that your food was being poisoned and tampered with because you thought tradespeople had gone in the back door and put strychnine
- 50 or something in your food?—A. No, I did not accuse the tradespeople.
- Q. Whom did you accuse?—A. I did not accuse anyone.
- Q. Whom do you suggest?—A. I did not make a suggestion.

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tion,
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Q. You did suggest that someone was doing it?—A. Yes.

Q. Someone was apparently, according to your idea, deliberately trying to do away with you—murder you?—A. I would not say murder.

Q. Well, manslaughter?—A. No.

Q. Deliberately trying to kill you, is that what you mean?—A. No, not altogether.

Q. But more or less?—A. Oh, yes.

Q. Didn't you suggest to anyone that it was your husband?—
A. No.

Q. Didn't you ever tackle your husband on it?—A. I told him about 10 it, that is all.

Q. Didn't you ask him whether he had been tampering with your food, or accuse him of tampering with your food?—A. Never.

Q. Your husband has been a very devoted husband to you?—
A. The usual husband, I suppose.

Q. Has he or has he not been a devoted husband to you?—A. The average husband.

Q. Has he treated you kindly and with consideration?—A. Yes.

Q. Did you and your husband occupy the same bedroom? (No
answer.)

Q. Why the delay in answering?—A. We share the same house.

Q. Did you and your husband occupy the same bedroom?—A. Yes.

Q. At all times?—A. Not at all times.

Q. Did you occupy the same bedroom as your husband as a rule, say, from the time you went back home from the Quirindi Hospital in 1938 onwards up to the present time?—A. Yes.

Q. Did you ever accuse your husband of trying to drug you or of having drugged you to take advantage of you?—A. No.

Q. Never at any time?—A. No.

Q. Do you swear that?—A. Yes.

Q. In 1940 did you make any such suggestion to anyone?—A. No.

Q. What gave you the idea that someone was trying to poison you?
Could you taste it in your food?—A. I noticed it first in the milk.

Q. Bitterness or sourness?—A. It made me quite ill.

Q. What was it in the milk?—A. I don't know.

Q. What made you think there was something wrong with the milk?
—A. The effect on me after I had drunk it.

Q. Anything else?—A. No.

Q. What were the effects?—A. I felt quite ill, I felt quite sick.

Q. Were you vomiting?—A. No.

Q. In what way did you feel quite sick?—A. It made me feel quite dizzy and sick.

Q. As if you wanted to vomit, as if something irritating or poisoning was in your stomach?—A. I did not feel as if I wanted to vomit.

Q. Did you have diarrhoea?—A. No.

Q. What made you think it was the milk? You say that you could not taste anything?—A. I was quite well if I did not drink the milk.

Q. You said that you noticed it first in the milk. What was the next food in which you noticed it?—A. I don't remember saying any other food.

Q. Only in the milk?—A. Yes.

Q. This was in the early part of 1941?—A. Yes.

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Q. At that time you had completely recovered from all your ailments that you have been telling us about, and you had been a well woman for quite a long time before this so-called poisoning arose?—A. Yes.

Q. Can you tell us anything further about this poisoning?—A. I never used the word “poisoning.”

Q. No, tampering with food for the purpose you have told us about. To whom did you tell this?—A. I don’t remember.

Q. So you may have told it to quite a lot of people?—A. No, but it could have been one or a few friends.

10 Q. I suppose you told a few friends and so on before you told your husband?—A. No.

Q. Who did you think was responsible for it?—A. I don’t know; I did not think.

Q. Did you go to the police?—A. No.

Q. Why?—A. Because I didn’t.

Q. Can you give any reason why?—A. I didn’t go to the police, that is all.

Q. Did you go to Dr. O’Hanlon about this poisoning matter? (Objected to.)

20 Q. With the tampering of your food by someone unknown?—A. No, I did not.

Q. Did Dr. O’Hanlon come to you?—A. He may have.

Q. Did you mention it to Dr. O’Hanlon?—A. I may have.

Q. Are you prepared to deny that you told him?—A. I would have to, I suppose; I don’t remember.

Q. I am putting it to you that on the 17th April 1941 you saw Dr. O’Hanlon, either at your home or at his surgery, and told him about this charge of your husband tampering with your food, poisoning it?—A. No, I did not accuse my husband.

30 Q. Do you deny that you spoke to Dr. O’Hanlon about it?—A. I may have done so.

Q. Did you say this or anything like it to Dr. O’Hanlon, that your husband had been interfering with your food and trying to poison you?—A. No, I did not; I deny that.

Q. If you did mention it to Dr. O’Hanlon did you do so with the idea of conveying that your husband was responsible or not?—A. No.

Q. Can you suggest anyone else but your husband as being responsible?—A. No, I don’t know.

40 Q. I suppose you were quite serious at the time, and you honestly believed this matter that you were bringing forward?—A. Yes.

Q. You believe it now?—A. Yes.

Q. You still believe that someone was tampering with or poisoning your food?—A. I still believe that someone was tampering with the milk.

His HONOR : By that you mean that someone was putting something injurious into it?—A. Yes.

Mr. REIMER : When you mentioned this to Dr. O’Hanlon do you remember him telling you that he did not believe it?—A. No, I don’t remember that.

50 Q. You are not prepared to deny that he may have said that to you?—A. He may have.

Q. Did you then add that your husband had been drugging you and taking advantage of it while you were drugged?—A. No, I deny that.

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Q. Are you prepared to swear that you never made any such allegation?—A. Yes.

Q. On the same day, 17th April 1941, either at his surgery or at your home?—A. I deny it, but I do not remember the date.

Q. Can you give me any idea as to why someone should be trying to tamper with your food?—A. No.

Q. Did you think that someone was persecuting you or something like that?—A. I did not understand why that anyone should interfere with my milk.

Q. But you had no idea who it might be?—A. No. 10

Q. You thought it might be the tradespeople?—A. I did not accuse the tradespeople.

Q. Did you think it might be the tradespeople?—A. I don't know; I didn't know who it was.

Q. Why did you mention before the possibility of the tradespeople?—A. You said there was no one else about the house but my husband and I.

Q. And that was correct?—A. Other people come about the place.

Q. What period did this tampering, as you call it, cover?—A. I don't know the time. 20

Q. How long had it been going on before you mentioned it to anyone?—A. I could not say, but quite a few weeks.

Q. Quite a few weeks before you mentioned it to anyone?—A. No, I mentioned it to my husband.

Q. Straight away?—A. Round about.

Q. What did your husband say about it?—A. I don't know now except that he told me not to drink the milk.

Q. Did it stop then?—A. Yes.

Q. You did not notice any further tampering after that?—A. No, I did not notice any further tampering of the milk after I did not drink it. 30

Q. You were asked one or two questions on this subject at a previous hearing?—A. That is so.

Q. You were asked: "Did you go and see him"—that is Dr. O'Hanlon—"and have a talk with him," and you replied "Yes." Then you were asked "What were you seeing him about," and your answer was "Doctor asked me to call and see him." Do you remember saying that?—A. Yes.

Q. Is it true?—A. Yes.

Q. He asked you to call and see him?—A. I had been away for a holiday and doctor asked me to call and see him when I came back, and I called and saw doctor. 40

Q. He asked you to call in after you had had your holiday?—A. Yes.

Q. To have a look at you from a medical point of view?—A. No, I only went to the door.

Q. You just called because he asked you to call in when you returned from your holiday?—A. Yes.

Q. Then you were asked: "Did you tell him anything when you got there," and your reply was: "That was nothing connected with the case."—A. He asked me had I had a nice holiday, and where I had been, and I told him where I had been.

Q. Where did you say?—A. To Bathurst, Oberon and several other 50 places.

Q. For how long had you been away?—A. Some weeks.

Q. Did you call on him as soon as you returned?—A. No, but it may have been within a few days.

Q. You were asked then: "I know it was not, but what was it you told the doctor on that occasion," and your reply was: "I cannot say." Do you remember saying that?—A. Yes.

Q. Then the question was: "You say you cannot remember," and the answer was "No, I cannot." Do you remember giving that answer?—A. Yes.

10 Q. Then you were asked: "Didn't you tell him on that occasion that you thought that you were pregnant," and the reply was: "That is a different matter." Do you remember saying that?—A. Yes.

Q. It goes on: "Didn't you say that to him on this occasion, that you say he asked you to come and see him, and didn't you then go on to make a charge against your husband, didn't you tell him that," and the answer was "No, but I went to see him." Is that correct?—A. Yes.

20 Q. It goes on: "That you thought that you were pregnant," and the reply was: "No, not when I went to see Dr. O'Hanlon." Then the question asked was: "Did you ever tell him that," and you answered: "Yes, on one occasion away back." You were then asked: "I am putting it definitely to you that in April of this year you called there as you say in response to a suggestion of his," and the answer was "No." The next question was: "And that you had a conversation and that you told him that," to which you replied "No." Then you were asked: "Did you tell him on that occasion that your husband had done things which were improper to you? Did you make a charge on that occasion against your husband." The answer to that was: "No, not when I went to see Dr. O'Hanlon." Do you remember saying that?—A. Yes.

Q. What did you mean by that, not when you went to see Dr. O'Hanlon?—A. I could not say now.

30 Mr. REIMER: "Q. Did you mean you did that on some other occasion?—A. Doctor came to see me on some other occasion." "Q. This year?—A. It would be early this year." Do you remember him coming to see you early in 1941?—A. Yes.

Q. Did you tell him you thought you were pregnant?—A. I did not say I told him that.

Q. Did you convey to his mind in any way or want to that you thought you might be pregnant?—A. I don't know.

Q. Are you prepared to deny it?—A. I don't remember what I said.

40 Q. You are not prepared to deny it?—A. I don't remember what I said.

Q. Are you prepared to deny you may have put that to him?—A. Yes.

His HONOR: Do you remember whether you indicated to the doctor in some way?—A. I may have done so.

Mr. HARDWICK: But you don't remember?—A. I don't remember.

Mr. REIMER: May you also have told him at that time that your husband had drugged you to take advantage of you?—A. I don't know.

Q. Do you remember the occasion the doctor came to see you?—A. Yes.

50 Q. Do you remember the interview to which I am referring?—A. Yes.
Q. Was your daughter present?—A. Yes, she was there.

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Q. Didn't you then charge your husband with having assaulted you on a number of occasions? (No reply.)

Q. Did you tell Dr. O'Hanlon your husband was in the habit of assaulting you?—A. Doctor was often joking.

Q. Did you tell Dr. O'Hanlon that your husband was in the habit of assaulting you?—A. I may have said something about it.

Q. What do you think you may have said?—A. Well, when people are joking they often say things they do not mean.

Q. You remember the doctor coming to your husband?—A. Yes.

Q. You remember your daughter being present in the house?—A. 10
Yes.

Q. What do you say you told Dr. O'Hanlon, joking or otherwise?—

A. I don't remember what I said on that occasion.

Q. Have you ever suggested to anybody that your husband assaulted you?—A. I may have.

Q. And you may have told that to Dr. O'Hanlon?—A. Yes.

Q. Was that the reason why you called him down to the house?—
A. No.

Q. What was the reason why you called him down. You were not ill at that time?—A. I was not well. 20

Q. What was the matter?—A. I was not feeling well.

Q. What was the matter with you?—A. I don't know, the doctor did not tell me.

Q. Did you get any medicines or anything like that from the doctor?—A. He gave me a bottle of tonic.

Q. On that occasion?—A. Yes . . .

Q. Did you show him any bruises?—A. No.

Q. Did he ask you to show him?—A. No.

Q. Do you remember Dr. O'Hanlon talking to your daughter in your presence?—A. He usually speaks to my daughter. 30

Q. Are you prepared to admit on that occasion you did suggest to Dr. O'Hanlon that your husband had been assaulting you, or not?—

A. Yes, I may have said it.

Q. Are you prepared to admit you did say it to Dr. O'Hanlon?—A. I may have said it.

Q. Has your husband ever assaulted you?—A. I suppose most husbands do.

His HONOR: You are asked, did you tell the doctor your husband had assaulted you?—A. Doctor has often jokingly . . .

Q. Joking or seriously, did you say that to him in any shape or form?—A. I may have done, but I could not say. 40

Q. Was it a fact your husband had assaulted you?—A. Well, my husband has hit me.

Mr. REIMER: He has assaulted you at times?—A. Yes.

Q. Hit you?—A. Yes.

Q. Did you deny he hit you on the occasion of the previous hearing?—A. I don't remember.

Q. Did your husband hit you more than once or not?—A. Yes.

Q. Did he make a habit of it?—A. Not altogether a habit.

Q. How did he hit you? (Objected to—allowed.) 50

- Q. Did your husband hit you with the closed fist or with a bottle or with what?—A. With his hand.
- Q. On various parts of your body, your head, or where?—A. Just anywhere.
- Q. With the idea of assaulting you—that is what you regarded it as?—A. No, not altogether.
- Q. You were complaining about it?—A. No, I was not.
- Q. Do you remember going to a dentist to have your teeth filled once?—A. Yes.
- 10 Q. Did you go back to Dr. O'Hanlon and say the dentist dislocated your jaw?—A. No.
- Q. Did anything like that happen?—A. Yes.
- Q. The dentist did dislocate your jaw?—A. The dentist was filling my tooth and my jaw slipped out. I did not accuse him of dislocating it.
- Q. Did you go to Dr. O'Hanlon and tell him about it?—A. No.
- Q. You did have a dislocated jaw when a dentist filled your tooth?—A. The jaw kept slipping out.
- Q. Have you ever had that experience before?—A. No.
- Q. Or since?—A. No.
- 20 Q. Do you deny you went straight around to Dr. O'Hanlon?—A. Certainly.
- Q. And accuse the dentist of treating you in such a way that he dislocated your jaw?—A. That dentist filled my teeth only a few weeks ago.
- Q. You deny that you went around to Dr. O'Hanlon and made that complaint?—A. Yes.
- Q. Has anybody besides your husband ever assaulted you, that you told people about?—A. No.
- 30 Q. People are not in the habit of assaulting you?—A. No.
- Q. How old are you?—A. Forty-four.
- Q. In 1937 you were pretty ill prior to the operation?—A. Yes.
- Q. You had heart trouble?—A. Yes.
- Q. You were receiving treatment for your heart from Dr. O'Hanlon?—A. I don't know what the treatment was.
- Q. You knew you were suffering in some way or another from your heart?—A. Yes.
- Q. Suffering from your nerves?—A. No.
- Q. You went to Quirindi Hospital for neurasthenia?—A. I don't know what for, I went to Quirindi Hospital under observation. Doctor
- 40 did not know what was the matter with me.
- Q. You were in a condition in which it was considered necessary to send you into hospital?—A. I went into the hospital.
- Q. You went into hospital at Quirindi on the 19th October 1937 and stayed there till the 15th November?—A. Yes.
- Q. Prior to that you paid a visit to Sydney?—A. No.
- Q. Did you receive any treatment from specialists in Sydney before you went to Quirindi Hospital in 1937?—A. Yes, just before I went into it. I went into Quirindi Hospital when I returned from the city.
- 50 Q. Before you came to the city you had a condition at the back of your neck and shoulders?—A. On the back of the neck.
- Q. Some kind of a rash?—A. There was no rash apparent. You could see no rash.

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- Q. But you had a very itchy back?—A. Yes, burning a great deal.
- Q. You used to scratch it quite a lot?—A. No, I don't remember scratching it.
- Q. When you scratched it it became red and inflamed and raw?—
- A. No, it didn't.
- Q. You were given various lotions and treatment by Dr. O'Hanlon for it?—A. He gave me a lotion for it.
- Q. It did not get better?—A. It got a little better.
- Q. But came back again?—A. No, after a time it gradually faded out.
- Q. Before you came to Sydney?—A. When I came to Sydney it was 10 about it.
- Q. You came to Sydney to see Dr. John Witton Flynn?—A. Yes.
- Q. He is a skin specialist?—A. I know now.
- Q. You were sent to a skin specialist in connection with the rash on your back. Did you know that complaint was in connection with your nerves?—A. No.
- Q. Nobody told you what it was?—A. No.
- Q. Did you ever inquire from Dr. Flynn as to what this condition was which you had on your back?—A. I only saw Dr. Flynn no more than twice, for a few moments. 20
- Q. Did he prescribe any particular treatment?—A. He said he thought I should have X-ray treatment on the back of the neck.
- Q. And he gave you the X-ray treatment?—A. He did not.
- Q. Dr. Flynn directed it?—A. Yes.
- Q. That was done?—A. Yes.
- Q. Do you know what it was, whether it was pictures or what it was?—A. Just X-ray treatment, as far as I knew.
- Q. The condition cleared up a bit?—A. Not then; it was after that.
- Q. You still had it just as bad when you went back to Quirindi?—
- A. Yes. 30
- Q. As soon as you got back to Quirindi, Dr. O'Hanlon saw you and put you straight into hospital?—A. Yes.
- Q. At that time you were suffering a lot from noises in the head?—
- A. No.
- Q. Never at any time?—A. No, I was not.
- Q. Ringing in the ears?—A. No.
- Q. Ringing in the head?—A. No.
- Q. Never at any time?—A. No.
- Q. If there are any such reports in the hospital records they are incorrect?—A. They are incorrect. 40
- Q. Did you have any noises in your head at a later stage?—A. I don't remember noises in my head.
- Q. Do you remember ringing in the ears?—A. After the operation, yes.
- Q. Not before?—A. Not before.
- Q. Did you ever mention to Dr. O'Hanlon or to the nursing staff at Quirindi Hospital that you had ringing noises in the head or ears?—
- A. No, I did not mention it at any time.
- Q. Quite sure about that?—A. Yes.
- Q. Quite positive?—A. Yes, quite positive. 50
- Q. You have told me that you had no idea at that time there was anything wrong with your thyroid?—A. Yes.

- Q. You had no idea ?—A. No idea.
- Q. You realised at that time you were a very frail woman ?—A. No, I was not very frail.
- Q. Weren't you losing weight ?—A. Not till after I went into Quirindi Hospital.
- Q. While you were in the Quirindi Hospital you lost weight ?—A. Yes.
- Q. You got down to something about five stone something ?—A. Yes.
- 10 Q. From that time onwards till you were sent to Sydney in February 1938 your condition gradually got worse and worse ?—A. After being in the hospital for four weeks and nothing to eat, naturally I lost plenty of weight.
- Q. In 1937 in Quirindi Hospital you had nothing to eat ?—A. I had practically nothing.
- Q. Why ?—A. I could not eat the blue sago—that is the truth.
- Q. Is that the only thing they gave you in the hospital ?—A. Very little else.
- Q. Were you unable to swallow at the time ?—A. No, I had no difficulty in swallowing then.
- 20 Q. Would it surprise you to know that while you were in Quirindi Hospital your weight was increased ? (Objected to ; allowed.)
- Q. Are you prepared to deny it is a fact that your weight increased while you were in Quirindi Hospital ?—A. It was not noticeable ; I thought I lost weight till I returned home.
- Q. After you returned home you lost more weight ?—A. No, I gained a little.
- Q. Did you weigh yourself or how do you know ?—A. By appearances.
- Q. You did not weigh yourself ?—A. No.
- Q. How about your sleep at that time ; your sleep was very disturbed ?
- 30 —A. I could sleep sometimes.
- Q. You used to have long nights of sleeplessness ?—A. Since the operation.
- Q. Speaking now of before you came to Sydney in 1938, from August 1937 to February 1938 ?—A. No.
- Q. You will admit Dr. O'Hanlon has treated you in August 1937, some time before you went to Quirindi ?—A. Yes, just a while before I went to hospital.
- Q. During those months, first tell me the fact or not—you suffered from insomnia ?—A. I did not sleep very well some nights.
- 40 Q. Wasn't it something worrying you ?—A. No.
- Q. You were unable to sleep ?—A. I was not worrying about it.
- Q. You were unable to sleep for days at a time sometimes ?—A. No.
- Q. Did you ever mention that to Dr. O'Hanlon ?—A. He might say : " How did you sleep ? " And I would say that I slept well or I did not sleep.
- Q. Nothing further than that ?—A. That was all.
- Q. Did you notice at the time you had shaky hands and body ?—A. No, I did not have a shaky body.
- Q. Did you have shaky hands ?—A. Only when startled.
- 50 His HONOR : If you started to shake you could not stop ?—A. If you jumped at me with a quick word or something I might flutter.

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Mr. REIMER : When you started to shake, were you able to stop or not ?—A. Yes.

Q. You could ?—A. Yes.

Q. You were attended by Dr. O'Hanlon and subsequently by Dr. Ritchie and Dr. Bell ?—A. Yes.

Q. During August 1937 to February 1938 you were suffering from what is called tremors ?—A. No.

Q. If you put your hand out straight you were shaking ; do you deny that ?—A. If there was no one strange present to upset me I could put my hand out as straight as it is now without any quiver. 10

Q. You did have the quivers when the doctor saw you ?—A. No, not always.

Q. It would be quite incorrect for anybody to say you did have such quivers at the time I mentioned ?—A. Yes and no.

Q. You had it sometimes, but not always ?—A. It did come on if I was startled.

Q. Only if you were startled ?—A. Yes.

Q. Before, you had a very moist skin ?—A. Yes, in the summer time.

Q. August isn't summer time ?—A. It is warm.

Q. This time of the year at Quirindi is warm ?—A. I don't remember 20 having a moist skin.

Q. You know why I am asking you these questions ?—A. No.

His HONOR : Mr. Reimer suggests at that time in August 1937 you were suffering from some nervous upset.

WITNESS : Yes.

His HONOR : Or some condition which made you prone to nervous attacks ?—A. The doctor did not tell me what I was suffering from.

Q. Was that the way you felt about things, upset easily ?—A. Yes.

Mr. REIMER : You came to Sydney in February 1938 to consult Dr. Ritchie as a specialist because of your physical condition ?—A. Yes. 30

Q. He examined you and told you you were suffering from acute poisoning and thyroid disorder ?—A. I don't remember him using the word "acute."

Q. Did he tell you you were suffering from poisoning of your thyroid ? A. No.

His HONOR : Disorder of the thyroid gland ?—A. Yes.

Mr. REIMER : And did he tell you your whole system was being poisoned by it ?—A. No.

Q. Did he tell you that if you were not operated on and pretty quickly that you would probably die. (Objected to.) 40

Q. Did he advise an immediate operation ?—A. Well, he said that the case could be treated without operation but it would in time come around to the operation and he advised the operation while the person was still young, so I suggested that I have the operation while I was down here.

Q. The same day you arrived in Sydney you saw Dr. Ritchie ?—A. No.

Q. On the 21st February ?—A. Not the day I arrived in Sydney—I don't remember the date.

Q. Did you see Dr. Bell the same day ?—A. Yes.

Q. You went into hospital the next day ?—A. Yes.

Q. Did you ever notice at any time any conduct on the part of Dr. Bell that you had occasion to complain about with regard to his treatment of you in the hospital ?—A. No, I never had an operation before, I don't know the rules.

Q. You had been attended by other medical men before ?—A. I have been in hospital at Quirindi, that is all.

Q. You have no complaint of the way Dr. Bell treated you in the hospital ?—A. I don't—

10 Q. Have you or not ?—A. Yes.

Q. What complaint have you got ?—A. I don't know how to answer that.

His HONOR : Something other than this action you are bringing against him now—

Q. He is not referring to your bringing of this action but whether you had other things to complain about, such as unkindness ?— (No reply.)

Mr. REIMER : He attended you every day at the hospital before and after the operation except for a few days that he had in Melbourne ?—
A. Yes.

20 Q. You were attended daily or frequently by Dr. Ritchie ?—A. Yes.

Q. During that period did you have, at any time, any occasion to complain of Dr. Bell's treatment of you ?—A. No.

Q. He was always gentle ?—A. I suppose the usual doctor.

Q. Was he gentle to you ?—A. Yes.

Q. Kindly ?—A. I would not say kindly.

Q. He spoke very nicely to you ?—A. Not always.

Q. Didn't you tell people what a nice kind man he was ?—A. No.

30 Q. Did you ever mention that to any of the nursing staff at the hospital, what a charming man he was ?—A. I remember saying in the hospital that I adored Dr. Bell, but that was not intended as a compliment.

Q. But you did tell them at the hospital you adored him ?—A. Yes.

Q. You adored him because of the way he was treating you ?—A. No, I did not intend it as a compliment.

Q. What did you mean by that ?—A. I thought he was rather a terrible type of person to leave the drain there and he must have known.

Q. Why do you say he was a terrible type of man ?—A. That is just why I made the remark.

Q. Why was he terrible, what did he do ?—A. I was back at St. Luke's Hospital after the drain had left my throat.

40 Q. I am not talking about that period. You went into St. Luke's Hospital on 22nd February 1938, before the operation ?—A. Yes.

Q. Dr. Bell attended to you every day before the operation and after the operation except for a day or two when he was in Melbourne ?—A. I don't remember him being—

Q. You remember him being there practically every day ?—A. Yes.

Q. Sometimes two and three times a day ?—A. Yes.

Q. While in hospital on that occasion did you tell people what a terrible man Dr. Bell was ?—A. No.

50 A. Did you regard him at that time as a nice kindly gentleman ?—
A. Rather nice man, that is all.

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Q. At any time prior to your leaving the hospital in 1938 did you ever change your opinion?—A. I don't remember, I don't think so.

Q. At the time you left St. Luke's in April 1938 you still thought he was a nice kind man?—A. I just thought he was a nice man, that is all.

Q. You had no complaints to make against him at that time?—

A. No.

Q. You have told us something about the discharge that came from the site of the operation. You had a discharge even when you had the tube there. Do you know that?—A. I don't remember—

Q. While the tube was still in your throat after the operation?— 10

A. Yes.

Q. Do you know whether or not you had a discharge?—A. No.

Q. After the tube was removed you did have a discharge?—A. Yes.

Q. Used you sometimes find that discharge come down on your chest?
—A. Yes.

Q. You used to wipe it off with a handkerchief?—A. No, I never used a handkerchief. The nurse dressed my wound.

Q. Was the discharge of any quantity?—A. Yes.

Q. All the time?—A. Yes.

Q. Flowing down all the time?—A. No, not all the time. 20

Q. What was the position?—A. It would stop for a number of hours and start again and it might go every hour or so.

Q. You had dressings every day?—A. Yes.

Q. The dressings were applied with plaster on either side of the neck?—A. Yes.

Q. And the piece of sticking plaster on the dressing on your chest?

—A. I don't remember the sticking plaster on the chest.

Q. Did you ever put your hand up to the dressing at all?—A. No.

Q. Never at any time?—A. No.

Q. Do you remember saying on a previous occasion you could feel a swelling by putting your hand up?—A. I could feel it in my face without touching or looking in a looking glass. 30

Q. In regard to the swelling, do you remember saying this: "It felt very tight and uncomfortable, by feeling it I could tell it was swollen"?

—A. What I meant by that was the feel of my face, not by touching.

Q. That is incorrect, what you said before: "By feeling it I could tell"?—A. By the feeling of my face.

Q. Are you prepared to admit within a very short time after this operation you were up and about in the hospital?—A. What do you call a short time after the operation? 40

Q. Within 14 days were you out of your bed for quite a while every day. Would you be prepared to admit that by the 28th March, 13 days after the operation you were sitting up on the edge of the bed?—A. Yes, doctor said I should put my legs over the bed for one minute or two. The nurse just lifted the feet over the side of the bed and put them back immediately.

Q. At that time were you feeling very well?—A. No, but much better than I had been.

Q. The following day do you remember being out of bed somewhere in the hospital for an hour or more, or any time, sitting up in a chair?

—A. No, I don't think I was out at all the next day, I don't remember being up. 50

Q. You don't remember being out of bed at all while in hospital?
—A. Yes.

- Q. You used to go to the bath yourself?—A. That is just before I left the hospital.
- Q. You used to go to the toilet yourself?—A. The nurse used to go with me, walk along with me.
- Q. You were quite able to walk along?—A. I could walk.
- Q. Do you remember Sister McEwan the night nurse?—A. Yes.
- Q. She was only there about a week?—A. More than a week.
- Q. How long would you suggest?—A. I don't know.
- 10 Q. Do you remember asking her to stay on for a while longer because you liked her so much?—A. No.
- Q. Did you ask her to come and see you at the hospital after she left?—A. No.
- Q. Do you remember her coming back and seeing you?—A. I remember her coming in for a moment with another nurse.
- Q. When she came in were you out of bed washing yourself?—A. No, in bed.
- Q. Washing yourself?—A. I don't know what I was doing.
- Q. When Sister McEwan came back to see you were you feeling well, bright and cheerful?—A. No, not well but much better than I had been.
- 20 Q. At that time did you have any particular condition you had cause to complain about?—A. No.
- Q. You were getting on satisfactorily?—A. No.
- Q. You were very anxious to go home?—A. I was tired of being in the hospital.
- Q. You were anxious to go home?—A. Yes, I wanted to go home.
- Q. You asked the doctors to allow you to go home?—A. Yes.
- Q. They advised you to stay in hospital a little longer?—A. Dr. Ritchie did, but Dr. Bell did not.
- 30 Q. Doctors Ritchie and Bell were looking after you together, one a surgeon and one a physician?—A. Yes.
- Q. You were advised to stay in the hospital a little longer?—A. Yes.
- Q. You did not take that advice?—A. No, Dr. Bell said I would be quite all right to go home.
- Q. At all events, you were allowed to go?—A. I don't remember Dr. Bell advising me to stay, he said I could go.
- His HONOR: These dressings had to be done?—A. Yes.
- Mr. REIMER: At the time you left St. Luke's Hospital you had a very little tiny opening in the centre of your neck?—A. Not a tiny one.
- Q. Did you have a look at it?—A. No, not till I got home, no, I got to 40 Newcastle and I dressed it then.
- Q. You saw it then?—A. Yes.
- Q. How big would you say the hole was?—A. Quite a big hole and doctor told me to keep it open.
- Q. How big was it?—A. You could put the size of my little finger in it.
- His HONOR: About the size of a pencil?—A. Yes, just about that, and you could put a bit about the size of an ordinary pencil in it.
- Mr. REIMER: You had dry dressings every day?—A. Yes.
- Q. One piece of gauze was put on which was kept clean frequently?— 50 A. No, pads of cotton wool. I was given a parcel at St. Luke's to take home with me.

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Q. When you got back to Quirindi why did you not call in Dr. O'Hanlon to let him have a look at you?—A. Dr. O'Hanlon was called.

Q. You were back some little time before you called Dr. O'Hanlon?—A. I expected him to call any day.

Q. You were back some time before Dr. O'Hanlon called to see you?—A. A few days.

Q. He called on you at the end of the month, the 30th April?—A. I don't know the date.

Q. You went into Quirindi Hospital on the 4th May?—A. I don't know the date, but about 10 days after I left St. Luke's Hospital. 10

Q. Are you not prepared to admit from the records it would be the 4th May you went in—if I showed you the records?—A. Yes, possibly.

Q. The records show you went into hospital on the 4th May?—A. Yes.

Q. You saw Dr. O'Hanlon the night before?—A. Yes.

Q. You saw him about two days before that?—A. Yes.

Q. He came to see you because you or your husband sent for him?—A. On the first occasion Dr. O'Hanlon came just to see me.

Q. Without you having sent for him?—A. Yes.

Q. Why didn't you send for Dr. O'Hanlon yourself?—A. As soon as I returned? 20

Q. At any time after you returned. Assume Dr. O'Hanlon came and saw you on the 30th April, you got back to Quirindi on the 16th April?—A. It was not a professional call, he just called in to see me.

Q. Did he examine you?—A. Yes.

Q. Whatever the time or the day was you told him about your experiences in Sydney?—A. He knew what had happened.

Q. Did you tell Dr. O'Hanlon you had been back in Quirindi for 14 days?—A. No, I had not been back for 14 days when he saw me first.

Q. Do you deny you told him you had been back in Quirindi for some 14 days?—A. Yes. 30

Q. Did you tell him that Dr. Bell had operated on you at St. Luke's?—A. He knew.

Q. You mentioned it?—A. Yes he mentioned it to me.

Q. Did you tell him your wound had become infected?—A. No.

Q. Did you tell him there had been a discharge from the wound?—A. He had a look and he could see the discharge.

Q. Did you tell him the discharge had announced itself while you were in St. Luke's and you had had a discharge all the time?—A. Yes.

Q. Did you also tell him that since you had left St. Luke's you had recovered a number of sutures knots?—A. Yes. 40

Q. In fact you had recovered quite a number of knots?—A. I don't know how many, two or three.

Q. Did you tell Dr. O'Hanlon that whilst in hospital you had pins and needles in your fingers?—A. Yes.

Q. Did you tell Dr. O'Hanlon you asked Dr. Bell what they were?—A. Yes.

Q. And Dr. Bell had told you it was a mild form of tetany?—A. I don't remember saying that.

Q. Do you remember telling Dr. O'Hanlon you had had some form of tetanus?—A. No, I don't remember mentioning tetany. 50

Q. Dr. O'Hanlon was present?—A. No, my husband had been speaking to him.

Q. Did your husband say that you mentioned to Dr. O'Hanlon that you had what you believed to be tetany in St. Luke's Hospital?—A. Yes.

Q. That is before you went to Quirindi Hospital?—A. Yes.

Q. You also mentioned Dr. Bell had prescribed calcium lactate for the tetany?—A. Yes.

Q. Did you ask Dr. O'Hanlon what the tetany was?—A. No.

Q. You had no further symptoms of anything except the pins and needles?—A. A slight pulling of my hands around the thumb and so on.

Q. When did you first experience that?—A. I could not say the first 10 occasion but some time before I went to Quirindi Hospital, some days.

Q. Before or after you saw Dr. O'Hanlon on the first occasion?—A. I think it was after.

Q. So that when you first saw Dr. O'Hanlon you had had none of these experiences you told us about?—A. Only slight.

Q. Only the pins and needles?—A. Yes and slight pulling of the muscles in the hands and limbs.

Q. Did you mention that to Dr. O'Hanlon?—A. I don't remember whether I did or not.

Q. Do you remember giving evidence here before and remember 20 showing the type of spasm you had in your hands?—A. Yes.

Q. Standing in that very box do you remember showing that you had your fist clenched? (Objected to.)

Q. Did you say this in relation to your experience after you returned to Quirindi? You were asked at page 9 certain questions and this is the evidence: "Q. When you got home what was your condition?—

A. I was really very ill when I got home for a while. Q. Were you in bed?—A. I was in bed for a couple of days and I was very swollen around the face and left shoulder. Q. Was it swollen when you left Sydney?—

A. No, not so much as it was when I got home. Q. What is the next thing 30 that happened in the course of your illness? You have told us about your face being swollen and about these sensations.—A. They gradually grew worse." The sensations are the pins and needles?—A. Yes.

Q. "Q. In what way did they gradually get worse?—A. I first noticed it on the left side of my face, my face started to draw up on the left side, then I used to get worse and my hands used to clench. Q. Demonstrate to the jury what you mean.—A. My fingers would clench up and my fingernails would cut into the flesh and my knees would be drawn up under my chin and I would be in a tight little ball." You gave that evidence before?—A. Yes.

40 Q. That is your description of your condition when Dr. O'Hanlon called to see you at the time—or not?—A. No.

Q. Did you at any time in the last hearing illustrate your hands in the position you have done in this Court?—A. The position I have done in this Court?

His HONOR: Q. At a former trial did you give your description of how your hands were clenched similar to how you did just now?—A. Yes, the same way.

Mr. REIMER: Q. You gave that on the last occasion?—A. Yes.

Q. You were in Court the whole time?—A. Yes.

50 Q. You heard the medical evidence?—A. Yes.

Q. The evidence of Dr. Ritchie, Dr. Poate and Dr. Bell?—A. Yes.

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Q. Every one of them referred to the fact that clenched fists is not experienced in tetany. Do you remember evidence being given by certain medical experts that clenched fists are not experienced in true tetany?—

A. Yes.

Q. You heard that evidence given?—A. Yes.

Q. Do you remember evidence being given to that effect?—A. Yes.

Q. Do you remember evidence being given to the effect that in tetany there is a very big type of hand spasm?—A. Yes.

Q. Known as Trousseau's sign?—A. I don't know the name.

Q. Do you remember it being referred to as Trousseau's sign?— 10
A. Yes.

Q. Or accoucheur's hand?—A. Yes.

Q. Do you remember seeing Dr. Ritchie, if not others, demonstrate that to the jury?—A. Yes.

Q. There were pictures shown at the time, illustrations in medical books?—A. Perhaps so, I don't remember.

Q. Do you remember seeing a drawing or photograph on the last occasion similar to that (showing Witness book)?—A. No, I did not see the pictures.

Q. You saw Dr. Ritchie at least, if not others, demonstrate the nature 20
of the spasms?—A. Yes.

Q. You heard them give evidence that in their opinion you were not suffering from tetany because you did not have that spasm?—A. Yes.

Q. You remember Dr. Ritchie at least, if not others, giving evidence to the effect that your alleged spasms were not tetanoid because you did not have a typical spasm—as one of the reasons?—A. Dr. Ritchie never saw me in a spasm.

His HONOR: Did you hear Dr. Ritchie give some evidence about the difference between your illustration of what you had and what he thought was the correct spasm?—A. No, I could see very little difference. 30

Mr. REIMER: Do you remember in the last hearing Dr. Ritchie giving evidence that in his opinion there was considerable doubt whether you ever had tetany?—A. Yes.

Q. You remember him putting forward a number of reasons why he formed that opinion?—A. I don't remember the reasons.

Q. Do you remember there were reasons put forward?—A. Yes.

Q. Do you remember that one of the reasons put forward was a form of hand spasm which you had demonstrated in Court?—A. Yes.

Q. And Dr. Ritchie gave evidence that the form of hand spasm you had given in Court was different to the typical hand spasm in true tetany? 40
—(No reply.)

His HONOR: Did you hear Dr. Ritchie say that?—A. Yes.

Mr. REIMER: You know well that there was considerable discussion whether you had your thumb in or out?—A. Yes.

Q. You know that quite a lot of evidence was given on the last occasion about the position of the hand with the finger nails biting into the palm and the thumb sticking out?—A. Not the thumb sticking out.

Q. Do you deny that you did, on the previous occasion, clench your fist with the thumb sticking out?—A. I deny that I did.

Q. You say no such thing happened in this Court?—(No reply.) 50

Q. Do you deny you did it standing in that box?—A. I deny I demonstrated with my thumb sticking out.

Q. Do you say you gave anything like the same sign on the last occasion that you did on this occasion?—A. Yes, exactly the same.

Q. If the thumb was not actually out, did you put it over with the clenched fist?—A. No, it was inside; I started the demonstration with the thumb so (indicating).

Q. Show me again your hand with the thumb inside?—A. Yes (doing so).

10 Q. Close your hand over it?—A. Yes.

Q. You say your finger nails came back and bit into your skin?—
A. Yes.

(Lunch adjournment.)

At 2.15 p.m.

Mr. REIMER: I want to have this quite clear. You say that on the previous hearing you did give the type of spasm that you indicated to the jury to-day?—A. Yes.

Q. And you deny that you demonstrated the spasm as one with the closed fist, either with the thumb outside or with the thumb protruding?

20 —A. I certainly did not have my thumb on the outside. The thumb was on the inside.

Q. Before I leave the St. Luke's period, I suppose you will admit that the discharge which was coming from the centre of the operation was gradually becoming less and less during the period in St. Luke's?—

A. On some occasions, yes.

Q. On the whole will you agree that it was becoming less and less as time went on from the time of the operation until you left?—A. No, it varied.

30 Q. A couple of days after the operation you did have what you describe as a rise in temperature; the wound was swelling, and the wound was probed?—A. Yes.

Q. That rise of temperature only lasted a few days?—A. Yes.

Q. And then your temperature returned to normal? (Objected to; admitted.)

Q. As far as you know, from a few days after the occasion when you had the temperature and the swelling your temperature returned to normal?—A. I would not say normal.

Q. Do you think you were still running a temperature?—A. No, but not a normal temperature.

40 Q. You were not aware of the fact that you were having a high temperature above normal?—A. I had had it.

Q. Yes; but you had the operation on the 15th?—A. Yes.

Q. The tube was removed on the 17th?—A. Around about that.

Q. A few days after that your throat became a little swollen?—

A. Yes.

Q. And the sinus, the centre, was probed?—A. Yes.

Q. And at that time you were running a little temperature, as Mr. Hardwick mentioned in his opening address to the jury?—A. It was not a little temperature.

50 Q. Up to 102 or 103?—A. Yes.

Q. That varied for two or three days?—A. Yes, several days.

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Q. Then the temperature settled down?—A. As far as I know.

Q. I put to you that from about the 22nd or 23rd March, as far as you were aware, your temperature was normal?—A. I was aware that it was not normal; but it was much better than it had been.

Q. Did you still think you had a temperature above normal?—A. I did not think about it.

Q. After the night special left, I put it to you that your general condition was very much improved?—A. Yes, I had improved.

Q. You no longer were in a condition where you required any special night nurse?—A. The hospital nurses attended to me after that. 10

Q. You did not require a special night nurse, I put to you?—A. No.

Q. From that time when Nurse McEwan ceased to attend you—from the time you left St. Luke's—from 23rd March to 14th April, the discharge from your wound was getting less and less; do you agree with that or not?—A. It would steady up and then start worse than ever again.

Q. Will you agree that, although it may have varied a little from hour to hour or from day to day, on the whole it was becoming less and less?—A. It may have been.

Q. You are not in a position to suggest that that would be incorrect?—A. No. 20

Q. And will you also agree that during the same period you were sleeping well at night and having comfortable days on the whole?—A. More or less.

Q. At the time you left St. Luke's Hospital was your neck still swollen?—A. Yes.

Q. Obviously swollen?—A. Yes.

Q. Was there any indication there at the time that your neck was inflamed; do you follow what I mean?—A. Yes.

Q. Was it?—A. Yes.

Q. It was inflamed at the time you left St. Luke's Hospital?—A. Slightly, yes. 30

Q. That was pretty obvious, I suppose, from your point of view?—A. I did not see my face.

Mr. HARDWICK: I do not know whether my friend means "inflamed" to be the same as swollen.

His HONOR: He asked both—you were asked about your neck—that does not mean your throat—the outside of your throat?—A. No—the outside of my throat was not so angry looking.

Mr. REIMER: Was the inside of your throat?—A. I did not look on the inside. 40

Q. I am speaking about the other side—it was not so angry?—A. No.

Q. What do you mean by that word?—

His HONOR: I used that word—I was trying to get whether it looked inflamed; did it seem to you to be inflamed or the appearance of it not normal?—A. I did not see my throat until I got as far as Newcastle.

Q. How did it look when you got to Newcastle?—A. It was terribly swollen, but it was not so inflamed.

Mr. REIMER: It was swollen but nothing else abnormal could be noticed?—A. That is so. 50

Q. I am speaking about the outside appearance of the neck ?—A. Yes.

Q. Not the inside of the throat ?—A. Certainly.

Q. When you saw Dr. O'Hanlon at Quirindi was your neck more swollen or not than it had been at the time you left St. Luke's ?—A. About the same.

Q. By the time you were admitted into Quirindi Hospital on the 4th May was the swelling still the same ?—A. Yes.

Q. It had not become worse up to that stage ?—A. It had been worse.

10 Q. When ?—A. When I returned home for a few days.

Q. You know that your husband wrote a letter to Dr. Bell ?—A. Yes.

Q. Before you went into Quirindi Hospital ?—A. Yes.

Q. I suppose you saw that letter before it was sent ?—A. No.

Q. You have seen the letter since, have you not ?—A. No.

Q. You know the letter I am referring to ?—A. Yes, I know the letter.

Q. And you know what is in the letter—it was put to you on a previous occasion ?—A. Yes.

20 Q. Do you remember that in the letter your husband wrote " Mrs. Hocking stood the trip from Sydney rather better than I expected, staying the first night at Newcastle, as suggested." That is correct, is it not ?—A. Yes.

Q. " The throat is not yet healed. He has taken out seven knots since coming home. It is not discharging so freely "—that is correct ?—A. As far as I know—on the day my husband wrote that letter it may not have been discharging so freely.

Q. Is the information in that letter right, that you had obtained about seven knots since you came home ?—A. Yes.

Mr. HARDWICK : What was the date of the letter ?

30 Mr. REIMER : 2nd May—you went into the hospital on the 4th May ?—A. Yes.

Q. The letter was written just before you went into Quirindi Hospital on 4th May ?—A. Yes.

Q. Is that a fair and accurate description of the wound—to say that " it is not discharging so freely " at that time ?—A. At times it would not discharge so freely.

Q. " The whole body has been much swollen until to-day. It seems slightly less swollen to-night "—was that right ?—A. I could not say.

40 Q. Did you ever remember your whole body being swollen at that time ?—A. I do not remember the whole body being swollen at that time, although I know that the swelling used to run down my arms over my chest.

Q. That was before you went into Quirindi Hospital ?—A. Yes. I went into Quirindi Hospital in a similar condition.

Q. Before you went into Quirindi Hospital in May, 1938, you say the swelling was over your shoulders or chest and down your arms ?—A. Yes.

Q. The last part of the letters is—" the tetany is still very annoying, but the attacks do not last quite so long. Cheque herewith for 25 guineas. Yours faithfully, Edmund Hocking." Is that a correct statement ?—

50 A. I did not see that letter.

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Trial.

Stella
Eileen
Hocking,
13th August
1942,
Cross-
examina-
tion,
continued.

*In the
Supreme
Court of
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*Plaintiff's
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Q. I did not ask you that. I asked is that a correct statement, that :
"The tetany is very annoying, but the attacks do not last so long"—
Was that a correct statement on the 2nd May 1938 ?—A. Yes, it could be.

Q. Two days after that letter was written you were taken into Quirindi Hospital ?—A. Yes.

Q. What was the condition of your swelling at that time ?—A. My face was very swollen, and my hands and arms.

Q. And legs ?—A. It ran down my body, but it did not get quite into my legs.

Q. Had you had any of these serious spasms you refer to before you 10
went into Quirindi Hospital ?—A. Yes.

Q. How long before ?—A. I think it was a day before ; I am not sure.

Q. At all events, after the letter written by your husband on the
2nd May and before you went into Quirindi Hospital on the 4th ?—A. Yes.

Q. You have given evidence here regarding certain spasms that took
place in the Quirindi Hospital ?—A. Yes.

Q. Are you prepared to admit that you had four spasms, in Quirindi
Hospital—only four—I am speaking of 1938 ?—A. I could not say ; but
round about four or five. 20

Q. If the hospital records disclose that you had four spasms would
you be prepared to agree that that would be right ?—A. I thought it was
more than that.

Q. But if the hospital records show that you had four spasms during
the period would you agree that that would be right ?—A. No, I had
more than four.

Q. May I take it that whether it was four or more all the spasms
that you had were of a similar nature ?—A. Yes.

Q. The way in which your body was distorted, or whatever you like
to call it, was substantially similar on each occasion ?—A. Yes. 30

Q. And substantially similar to the incident that happened a day or
so before you went into the hospital ?—A. Yes.

Q. In this court you have mentioned regarding those spasms that
your tongue was drawn back into a ball at the back of your mouth ?—
A. Yes.

Q. That is the first time you have ever mentioned that, is it not ?—
A. No.

Q. Did you say one word about that on the previous hearing of this
action ?—A. I do not remember.

Q. Are you prepared to admit that you did not ?—A. No, I am not 40
prepared to admit I did not, but I do not remember it.

Mr. HARDWICK : Was she asked ?

Mr. REIMER : She was asked to describe all the spasms both by you
and by somebody else.

WITNESS : I would have told you if you had asked me.

Mr. REIMER : You mentioned that you had a lump on your
shoulder ?—A. Yes.

Q. Will you agree that that is the first occasion you have ever men-
tioned the lump on your shoulder ?—A. No.

- Q. Do you suggest that you mentioned that at the previous hearing ?
 -A. I said the same thing by saying my left shoulder was swollen.
- Q. Did you refer to it yesterday as a lump on your shoulder ?—A. The left shoulder was swollen very badly and the right one—
- Q. Did you ever mention that before ?—A. Yes, I have mentioned it.
- Q. In Court—did you ever bring that forward ?—A. I do not remember.
- Q. You mentioned that your veins were swollen ; that is new too, is it not ?—A. No.
- 10 Q. That was never mentioned before, was it ?—A. I do not remember.
- Q. I put it to you that you can go through the whole transcript with a fine tooth-comb and you will never see one of these things mentioned anywhere by you or your counsel or anybody ?—A. My counsel can speak for themselves.
- Q. I do not doubt that. You mentioned also the rolling back of your eyes, sometimes one eye, and sometimes both eyes ?—A. Yes.
- Q. Did you watch for it in a mirror ?—A. No, but I knew they were pulled back.
- Q. How did you know that ?—A. I saw one eye pulled back.
- 20 Q. How did you see that ?—A. I was sitting in the room alone and I put my hand to see what was happening and my eye was pulled back. I put my hand on the bell and called the nurse, but the eye was coming back when the nurse got there.
- Q. One eye was looking in the mirror and the other eye wandering away ?—A. The muscles were pulling it back.
- Q. Was it back in the lid, or looking round the back door, or somewhere ?—A. It seemed to be inside out.
- Q. Was it turned into the upper lid or lower lid, or what—you watched it with the other eye ?—A. I did not really have a good look at it.
- 30 Q. You are telling us that you watched one eye disappear ?—A. The eye was coming back—I do not know how it got there.
- Q. How did you know your one eye was not functioning properly ?—A. I could feel it. It was painful.
- Q. Anything else ?—A. You could not see.
- Q. Could you see two wards with two beds ?—A. No.
- Q. You did not have double vision ?—A. No, I did not.
- Q. And this happened during a spasm ?—A. No, not during a spasm.
- Q. When did it happen—while you were having lunch or what ?—A. No, I would have slight spasms.
- 40 Q. Only in your eye ?—A. On that occasion it was only in my eye. The doctor was not called immediately on that occasion.
- Q. Where was this mirror ?—A. On the cabinet by the bed.
- Q. You could pick it up quite all right with your hand ?—A. Awkwardly.
- Q. You did not have a spasm in your hand ?—A. Not very much at the time.
- Q. Did you not have a spasm at the time ?—A. A spasm in the face.
- Q. I am asking in your hand ?—A. A very little one.
- Q. At the very same time that you noticed this pain in your eye ?—
- 50 A. Yes.
- Q. Which caused you to pick up the mirror with your hand and look ?—A. Yes.

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Q. And when you looked you saw one eye turned back and you saw it coming back to normal?—A. I did not see it coming back. I was speaking to the nurse of what happened and she rushed off to the matron. I do not think she saw it coming back either.

Q. You told us you had that experience with both eyes?—A. Yes.

Q. How did you know that?—A. I felt both eyes pulled back and I could not see.

Q. Did you also at the same time have a spasm in your hands and other parts?—A. Yes, light spasms in my hands.

Q. Did you ever mention this matter of the eyes before?—A. Yes. 10

Q. Do you say you mentioned that at the previous hearing—one word about it?—A. It was mentioned in the hospital—I do not remember it was mentioned in Court.

Q. Did you ever suggest it in the evidence before?—A. I do not remember.

Q. You agree that you may not have mentioned it?—A. I may not.

Q. You mentioned it, you say, to the people in the hospital—the staff, or somebody?—A. Yes.

Q. Do you know who the matron was at the time?—A. Matron Faul.

Q. At the time you were in the hospital?—A. Yes. 20

Q. You are quite sure about that?—A. Yes.

Q. Did she come along and see you?—A. She came along after.

Q. While you were in hospital from the 4th May to the 9th June, did Matron Faul come and see you in the ward?—A. Yes.

Q. On a number of occasions?—A. Yes, she stood by my bed for hours massaging my arms.

Q. This is the first period in St. Luke's Hospital?—A. No, I am not speaking of St. Luke's.

Q. Quirindi Hospital—I beg pardon. May–June 1938, there is no doubt in your mind about that?—A. No. 30

Q. Would it surprise you to know that Matron Faul was not at the hospital at the time? (Objected to as improper question—admitted as advocate's license.)

Q. Would you be surprised if in fact Matron Faul was not at the hospital at all during that period—that she was away on holidays?—A. Matron Faul was matron of the Quirindi Hospital the whole time I was there.

Q. And was acting—not away on leave?—A. I do not remember the dates on this occasion.

Q. Do you remember Sister Abberton?—A. Yes. 40

Q. I put to you that she was acting matron during May and June while you were in Quirindi Hospital?—A. Just for a few days before I left Quirindi Hospital only—one Sunday.

Q. Did Abberton see you in any of these spasms?—A. Yes.

Q. Ones with the eye?—A. No.

Q. Ones with the tongue?—A. I suppose she did with the tongue.

Q. Did you mention it to her?—A. Not that I remember.

Q. You say Abberton did see the spasms involving the eye?—A. No. I do not think that she did.

Q. Did you mention it to Abberton?—A. I do not remember 50 mentioning it to Abberton.

Mr. REIMER : Did Miss Abberton see your face swollen ?—A. I suppose so ; she was one of the nurses who used to massage my arms and stomach when I was in these spasms.

Q. Have you mentioned in your prior evidence that you had these swollen veins ?—A. I do not remember doing so.

Q. But the muscles of your back were involved, pulling your legs up ?—A. I said that my back was bent.

Q. Of course, you have read something about this tetany ?—A. No, I have no idea what it is other than what I have told you.

10 Q. You sat in Court previously for several days and heard a lot of technical evidence about it ?—A. Yes.

Q. Do you remember anything about it at all ?—A. Very little.

Q. Have any of these additions that I suggest you have put on to your story on this occasion been due to the evidence you heard on a previous occasion ?—A. No, I did not hear the evidence.

Q. You heard the evidence of Dr. Bell and Professor Welsh and Dr. Poate and Dr. Ritchie ?—A. Yes, but I did not hear Dr. Poate say anything about veins.

20 Q. Are any of the additions or alterations that I suggest you are putting on to your story on this occasion due to the evidence of experts ?—A. Certainly not, in any shape or form.

Q. Your first spasm in the Quirindi Hospital took place after you had been there for some time ?—A. Yes.

Q. If I told you that the first entry in the Quirindi Hospital records shows a spasm on the 17th May—— (Objected to.)

Mr. HARDWICK : I undertake to put the records in at the appropriate time.

His HONOR : If the records are going to be used it seems to me they will speak for themselves.

30 Mr. REIMER : You can take it that the first entry in the Quirindi Hospital of any spasm was on 17th May ?—(Objected to.)

Q. You did not receive any intravenous injection until 9th May ?—A. I did not remember the date.

Q. You received intravenous injections of calcium chloride from Dr. O'Hanlon ?—A. Yes.

Q. And later on of calcium glucinate ?—A. I know it was calcium.

Q. You got an intravenous injection of calcium, as you call it, from Dr. O'Hanlon on the first occasion you had what you call one of those severe spasms ?—A. Yes.

40 Q. And on the 9th May it is stated that you had a spasm at 12.45, and Dr. O'Hanlon gave you an intravenous injection. Do you agree that that would be about the time when you had your first spasm ?—A. That would be the most severe spasm, but I would have slight spasms.

Q. You said yesterday that your feet were turned down ?—A. Extended and turned slightly inwards.

Q. That is something you have not mentioned before in Court ?—A. I do not remember.

50 Q. I put it to you that the only reference that you ever made as to the nature of these spasms in Quirindi Hospital, or at any other time, from when you came back from St. Luke's in 1938 until this extraordinary

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incident that you have described happened, the only description you have given is: "My face started to draw on the left side. Then I used to get worse. My hands used to clench. My fingers would clench. My finger nails would cut into the flesh. My knees would be drawn up to my chin and I would be in a tight little ball." Is that the only description you gave about the hands at a previous hearing?—A. I suppose so.

Q. It goes on in this way, that you were asked, did this happen at the time you went to Quirindi Hospital, and the answer is: "I had a slight attack." Then you were asked: "What was the slight attack like before you went in," and the answer: "The tightening of the hands and the jerks of the muscles of the feet and legs, but not so much." You were then asked: "What about the face?" and the answer was: "And the face, too." The next question was: "Do you remember when Dr. O'Hanlon was called in in relation to the date you went to Quirindi Hospital?" and the reply was: "I do not remember the date." You gave no account on the previous occasion of anything about the nature of these feet spasms in tetany?—A. Haven't I mentioned feet?

Q. Did you say one word about the particular kind of spasm you had in your feet, about your feet being turned in?—A. I do not remember.

Q. Have you discussed this with any doctor?—A. No.

Q. Professor Welsh?—A. No.

Q. Have you read any books on the matter or had any reports?—A. No.

Q. Did you know that that particular form you are putting of the spasm of the hand has any relation to tetany?—A. I was just demonstrating what I felt.

Q. You had no instruction or information on the matter since the last trial?—A. No.

Q. Why didn't you mention it before?—A. I did not think it was important; ask my Counsel why.

Q. The question put to you by Mr. Hardwick himself was: "Demonstrate to the jury how you mean, how they got worse," and the reply is the answer I have already read. Have you anything to suggest as to why you did not describe those other matters before?—A. No.

Q. You told us that Sister Abberton and Matron Faul saw those spasms or some of them. Do you remember the names of any of the other people on the staff who attended to you and saw these?—A. No.

Q. At all events the sisters in charge of your ward—you were in a private ward—would be the ones who saw whatever there was to be seen?—A. On one occasion doctor had every nurse in the hospital around my bed.

Q. I referred you just now to the occasion when you apparently had a spasm on the 9th May, when you were given an intravenous injection of calcium chloride. I suppose you will admit that from that time on you had administered calcium to your body almost daily?—A. Sometimes a day would be missed, but practically daily.

Q. According to the hospital reports you had a further spasm on the 17th May?—A. I do not know the dates.

Q. Do you remember an occasion when Dr. O'Hanlon gave you a couple of whiffs of chloroform at Quirindi Hospital?—A. I remember them saying I had chloroform, but I was not conscious.

Q. And if they gave you chloroform they were giving it to an unconscious woman?—A. No, I would regain consciousness and lose consciousness, and so on.

Q. And in between the gaining and the losing of the consciousness they gave you some chloroform?—A. I do not remember, but I heard them talk about it.

Q. I put it to you that the only other occasion upon which you had any spasms while you were in Quirindi Hospital was on 1st June, when you had two on the one day?—A. I remember having two on the one day.

10 Q. Do you remember on that day—according to the reports it was the 1st June—that Dr. O'Hanlon was there in the morning and gave you an intravenous injection of calcium chloride?—A. I don't think it was calcium chloride.

Q. That is right, it was calcium glucinate, apparently during the morning. After that, do you remember having a spasm about 6 o'clock in the evening?—A. Yes, and Dr. O'Hanlon was called.

Q. Were you unconscious on that occasion?—A. I don't remember.

Q. When Dr. O'Hanlon came along did he give you chloroform?—A. I don't know.

20 Q. You had another spasm about 9.15 that evening?—A. Yes. I remember that.

Q. Do you remember being given morphia?—A. I have a slight recollection of it.

Q. Do you remember that after you were given morphia you had another spasm and the doctor and the nurse came back to you about 15 or 20 minutes later?—A. I don't remember it.

Q. May I take it that from the 9th May, the day the first serious spasm came, until you left Quirindi Hospital you were getting intravenous injections almost daily?—A. Yes.

30 Q. And you had those spasms notwithstanding the calcium injections?—A. If doctor missed a day I think I took the spasms but not while he was continuing with the treatment.

Q. In those spasms in the hospital did your knees come up to your chin?—A. Yes, there was no question about that.

Q. And your finger nails cut into your hands?—A. Not then.

Q. When did the finger nails first evidence themselves?—A. In the later stages after I had been back home.

40 Q. With regard to the sinus, the little aperture in the centre of your operation wound, when you went into Quirindi Hospital was that probed almost daily for four days by one of the nurses at the hospital?—A. Those are big occasions when the doctor probed.

Q. And the probe used is similar to the one I showed you this morning?—A. Sometimes, and scissors.

Q. Forceps or tweezers?—A. Yes, that you put in and press open.

Q. Do you remember Dr. O'Hanlon putting some liquid ether on the centre of your wound on one occasion, a little bottle which is pressed with the thumb and squirts out, a sort of local anæsthetic which is very cold?—A. No, I don't remember.

50 Q. Have you ever had that experience, either in the dentist's chair or anywhere else?—A. Yes, I remember that now, I know the type of thing, but I did not see the bottle.

Q. You remember that being done to you by Dr. O'Hanlon?—A. Yes.

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Q. When that was done he put some instrument inside the little hole and opened it up?—A. No.

Q. Did he do anything to it when he put the ether on?—A. I had some blubbers on the side of my neck where the drain was protruding, and Dr. O'Hanlon said that Dr. Bell should not have let me go home with those blubbers, and that is when he cut them off with a knife.

Q. That is something new?—A. I have not been asked the question before.

Q. What do you call blubbers, little cysts?—A. They were little bits of skin, and Dr. O'Hanlon called them blubbers. 10

Q. Did you see them?—A. I had noticed them.

Q. What did Dr. O'Hanlon do?—A. Cut them off.

Q. And that was on the right side of your neck, at the side from which you say the tube had been removed?—A. Yes.

Q. And is that what he used this ether for?—A. Yes, not for the purpose of probing.

Q. Whether the ether was used to do a little trimming around your neck or whatever it was used for, will you admit that from that time the sinus rapidly cleared up?—A. No, I don't agree with that.

Q. And by the time you were ready to leave Quirindi Hospital you 20 had had only dry dressings on for quite a few days?—A. I had had fomentations for some days, and had cold wet dressings after the hot ones, and after that I had dry ones.

Q. You had dry dressings for quite a while before you left Quirindi Hospital?—A. Yes.

Q. And when you left Quirindi Hospital was this little sinus healed?—A. It was not healed and there was still a slight discharge.

Q. Do you know the difference between a serious discharge and a discharge of a pusy nature?—A. Yes.

Q. Was it a serous discharge or pus?—A. It was pus. 30

Q. May I take it that you had pus coming from this sinus very often during the whole of the period you were in Quirindi Hospital?—A. Not the whole of the period; it would stop and then swell up in front of my throat and start again.

Q. Whenever you had a discharge it was always of a pusy nature and not serous?—A. That is so.

Q. You understand the difference and you are quite sure about it?—A. Yes.

Q. As far as the swelling in the Quirindi Hospital is concerned, did that remain well up?—A. It varied, sometimes up and sometimes down. 40

Q. What was the maximum swelling?—A. Very swollen.

Q. I suppose you remember giving evidence about your swelling on the previous occasion?—A. Yes.

Q. Do you remember saying that at one stage you had no neck, that your neck and shoulders were all one piece like I am now illustrating?—A. I did not mean it like that, I said down here. (Illustrating.)

Q. You said that your head, neck and shoulders were all one piece, and that you had no neck?—A. Yes, I remember that.

Q. Was that the condition at any time in Quirindi Hospital?—A. My neck was very swollen. 50

Q. Will you say that what you said just now was an apt description of the condition at Quirindi Hospital?—A. No, it was not quite so bad in Quirindi Hospital.

- Q. Did you still have this swelling when you left Quirindi Hospital ?—
A. Yes.
- Q. Can you give any other explanation of the extent to which your neck was swollen in Quirindi Hospital ?—A. My face and neck were very swollen, ever so much more than they should have been. My face was so swollen, and I had tiny little eyes and my cheeks were all bulged out.
- Q. How about the neck itself ?—A. My neck was swollen too.
- Q. Both sides ?—A. More so on the left, but it would be swollen on both sides.
- 10 Q. More swollen on one side than the other ?—A. Yes, the left was more swollen though the right was also swollen.
- Q. Would it be correct that even in Quirindi Hospital your swelling was so great that it extended from your head to the shoulders ?—A. No. My face and neck were very swollen, much more than normal, but not as much as it was during the latter part of my illness.
- Q. That might mean anything. Can you give us any description at all ? Where did it start and finish ?—A. It might not finish until it got down to my chest and down the left arm.
- Q. Was that the position ?—A. Yes.
- 20 Q. Was that the condition when you left hospital ?—A. I don't remember being swollen so much when I left the hospital as some time when I was at the hospital.
- Q. You said that on one occasion in the Quirindi Hospital you turned your neck suddenly and was your neck very swollen at the time ?—
A. Yes.
- Q. In the way you have described ?—A. It was very swollen.
- Q. And very sore ?—A. I did not notice it any sorer than usual, nothing really to complain about with regard to hospital experience.
- Q. Which way did you turn your head ?—A. To the left.
- 30 Q. Suddenly ?—A. Very suddenly.
- Q. What did you notice when you turned it suddenly ?—A. The blood started to run down my chest.
- Q. Did you notice anything else ?—A. Something stuck in my cheek or neck.
- Q. Was it cheek or neck ?—A. My neck, where I indicate, though I could not just put my finger on the spot.
- Q. It was somewhere on the left side of your neck, about an inch or so above where the operation scar is ?—A. Yes.
- Q. And about half-way between the front of your throat or neck ?
40 —A. Just about where I point out.
- Q. Did you feel one or two wires ?—A. I did not count, but I just felt something sticking in me.
- Q. You said previously that you could feel the wires in your neck ?—
A. No, I didn't.
- Q. You felt something sticking into your neck and you immediately had bleeding ?—A. Yes.
- Q. The bleeding came out of the centre ?—A. Yes, and it was wiped up with cotton wool.
- Q. Did it come over your chest ?—A. Yes.
- 50 Q. Was it fairly extensive ?—A. Quite.
- Q. Was the blood actually flowing ?—A. Yes.

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Q. It was not merely a question of a little blood stain oozing?—
A. It was blood running down out of this little sinus on to my chest.

Q. Who cleaned this up?—A. I did have a nurse.

Q. Do you remember who it was?—A. It was at night time, and I do not. In a country hospital you might ring for half an hour before you got the assistance of a nurse.

Mr. REIMER: How long did this bleeding last before the nurse came to your assistance?—A. I do not remember, a minute or two.

Q. Was it half an hour or 20 minutes?—A. No, it would be minutes, two or three minutes. 10

Q. And was this bleeding coming down all the time during those two or three minutes?—A. Just slightly.

Q. Flowing as you have told us?—A. Yes, quickly.

Q. And I suppose your night dress became bloodstained?—A. Yes, just in the front.

Q. And the bedclothes?—A. No, it did not bleed to that extent.

Q. And you say the nurse wiped it off with a piece of cotton wool?—
A. I did, and the nurse finished it up when she came.

Q. I understood you to say the nurse also wiped it with a piece of cotton wool or something or other?—A. Yes, she was one of the junior 20 nurses.

Q. I suppose that was rather alarming?—A. Yes.

Q. Nothing like that had happened to you before?—A. No.

Q. And did you mention it to the matron?—A. Yes.

Q. That is Matron Faul?—A. Yes.

Q. Did you mention it to any of the other senior members of the staff who were attending to you?—A. Dr. O'Hanlon knew about it.

Q. I will come to the doctor in a moment. Did you mention it to Abberton?—A. No, Abberton was not on duty on Monday.

Q. You mean to your knowledge she was not on duty?—A. I did not 30 see her that night.

Q. Did you mention it to her when you did see her?—A. I do not remember whether I did or not.

Q. How long after you entered the hospital did this occurrence take place?—A. I had been in the hospital about a week or so.

Q. Before you had the spasms or after?—A. I think it was before.

Q. And apart from whoever the nurse was cleaning it up, did they do anything else?—A. No.

Q. Did you mention it to Dr. O'Hanlon?—A. He knew.

Q. Did you mention it to Dr. O'Hanlon?—A. No. 40

Q. Why?—A. Well, the doctor came in and was asking me questions about it before I mentioned it to him.

Q. So that from the way the doctor spoke to you, it was perfectly clear he had received a report about it?—A. Yes.

Q. What exactly did Dr. O'Hanlon say to you when he came in?—
A. He said: "What is this, about bleeding in front of your neck"; and I told him that something was sticking in my neck and it started to bleed, and he did not say anything about it, of course.

Q. Why "Of course"?—A. Well, he did not tell me what he thought of it. 50

Q. But why "Of course"?—A. It is the usual thing. Doctors do not very often tell the patients very much.

Q. Did he make any examination of your neck ?—A. He had a look at my throat every day when he came in.

Q. But did he have a particular look to see where the bleeding had been coming from ?—A. No, no more than usual.

Q. Did you then tell him about this feeling of something pricking you in your neck ?—A. No.

Q. You never mentioned that to him ?—A. I told him that on the occasion I told him that something had stuck in my neck.

10 Q. Did he make any investigation or look to see whether or not he could find anything to explain what you told him ?—A. I do not remember whether he made any more than the usual examination.

Q. He made no examination any different to what he made on any other occasion ?—A. Not to my recollection.

Q. Of course at that time you still had the swelling ?—A. Yes.

Q. And you still had this pussy discharge at the time ?—A. Yes.

Q. When you went home, as you have already told us, this sinus healed up in the course of two or three days, you had Sister Sly there and your sister, and during that period you had these spasms ?—A. Yes.

Q. You had daily intravenous injections of calcium ?—A. Yes.

20 Q. Dr. O'Hanlon attended at your home every day ?—A. Yes.

Q. And at that time of course you had difficulty in eating, difficulty in swallowing ?—A. Not such a great deal.

Q. But you only had a light diet, light food ?—A. Yes, it could be called light food.

Q. Sloppy sort of food ?—A. Yes, soft foods.

Q. When the sinus healed up towards the latter end of June, you say the swelling became worse ?—A. Yes.

30 Q. And from that time onwards the swelling was a constant feature ?—A. No, sometimes it looked a little better and then it would swell up more and go down again. It varied.

Q. From the time you went back to your home from Quirindi Hospital until October 1939, is it correct that you felt this wire in your neck from time to time ?—A. Yes.

Q. And when you turned your head you could occasionally feel this thing, whatever it was, sticking into your flesh ?—A. Yes.

Q. Did you ever mention that to Dr. O'Hanlon on any of the occasions that he ever visited you ?—A. I think I drew Dr. O'Hanlon's attention to my neck on every occasion I saw him.

40 Q. Did you tell the doctor in hospital that you felt something pricking in your neck ?—A. Yes.

Q. Did you mention it again to Dr. O'Hanlon from time to time when he attended you ?—A. Yes, on occasions I did but after a time when it hurt every time I turned my head to the left I avoided turning my head to the left and I would go for weeks and not turn it to the left, and if I did turn it to the left I would turn the body.

Q. And that pain that you had if you turned your head to the left was still in the same position ?—A. I felt this cutting and I thought it was the muscle. I tried to save the muscle as I thought.

Q. And you still felt it in the same position ?—A. Yes.

50 Q. And you told Dr. O'Hanlon about this ?—A. Yes.

Q. What did you tell him ?—A. I could not say. I just do not remember what I said.

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Q. Did you tell him that you felt this thing in your neck?—A. Yes, I said there was something the matter with my neck and I drew his attention every time I saw him to where it was swollen more or less.

Q. Anything else particularly you told him?—A. No, I do not remember I told him quite a lot but I cannot remember just what it was.

Q. Did you ever suggest to him there might be a foreign body present?—A. No.

Q. And did you tell Dr. O'Hanlon just where you felt this thing in your neck, point it out to him?—A. Yes, I told him here (indicating).

Q. You told him in detail what you have told us?—A. I did not have 10 to go into such detail about it.

Q. But your doctor was attending to you and naturally you would tell him your symptoms and feelings?—A. Yes.

Q. If you had this pain in your throat or neck would you tell him?—A. Yes.

Q. I am asking you, did you tell him?—A. Yes, as far as I remember I did tell Dr. O'Hanlon.

Q. Towards the end of June Dr. O'Hanlon changed the injections from calcium chloride and calcium glucinate to paroidin. He gave you paroidin instead of intravenous injections of calcium chloride and calcium glucinate? 20—A. Yes.

Q. Is it correct you received those injections also daily from Dr. O'Hanlon?—A. No, Dr. O'Hanlon did not give me those injections. Sister Sly started, my sister continued on from there, and then my husband.

Q. May I take it that from about the end of June onwards you received injections of paroidin either from your husband, or from Sly or from your sister?—A. Yes.

Q. Almost daily?—A. It varied. Sometimes I missed several days.

Q. But on the whole it was practically continuous?—A. Not altogether continuous. Sometimes I might miss a week. 30

Q. I thought you told me before that sometimes you would miss a day and then you would have two or three in one day?—A. Not of paroidin.

Q. Did you not have paroidin every time you had a spasm?—A. Yes.

Q. And sometimes you had spasms two or three times a day?—A. Yes, but I only had one injection of paroidin.

Q. You did not have paroidin more than once a day?—A. No.

Q. May I take it you had these spasms throughout the period from June 1938 to 2nd October 1939?—A. Yes.

Q. You never had any spasms after 2nd October 1939?—A. I had not.

Q. You remember being taken by Dr. O'Hanlon you say to Quirindi 40 Hospital on 3rd September?—A. Yes.

Q. From June to September you told us the spasms you were having were almost daily?—A. Yes.

Q. And were those spasms the same type as you had had in the hospital before?—A. Yes.

Q. You still had this business with the eyes every now and then?—A. Yes.

Q. Unconsciousness?—A. Yes.

Q. Your feet and hands as you have described?—A. Yes.

Q. With your finger nails cutting into your hands?—A. It was after 50 that when my finger nails cut into my hands.

Q. Do you ever remember clutching anything during those spasms?—A. No.

Q. Clutching your clothes or clutching the doctor's clothes, his arm or anything like that?—A. No.

Q. Do you ever remember the doctor or anybody trying to release your grip on the doctor's clothes?—A. No, but I remember him trying to open my hands when they were clutched.

Q. Do you ever remember gripping anything at all?—A. No, there was nothing to grip.

Q. May I take it the nature of those spasms continued the same right through from June 1938 to 2nd October 1939?—A. They varied.

10 Q. But only in minor details—they were severe spasms?—A. Yes, they got more severe towards the end.

Q. They got worse instead of better?—A. Yes.

Q. The swelling and inflammation during that time in your neck was getting worse too?—A. Yes.

Q. Gradually getting worse and worse?—A. Yes.

Q. And you told us that you had pus in your mouth?—A. Yes.

Q. When did you first notice pus in your mouth?—A. Some weeks before 2nd October.

20 Q. Would it be a matter of some months before October?—A. No, weeks.

Q. Do you remember saying this on the previous occasion when you were giving evidence before—you were asked this question at page 14: "From September 1938 when you came out of the hospital, I want you to tell us . . . they all ran into one." Is that a fair and accurate description of the condition of the swelling during that period?—A. Yes, I still say that my head and shoulders were sort of glued.

Q. Do you mean all one by close swelling?—A. No, I mean my face swelled out down on to my shoulder and the shoulder was swollen.

30 Q. So your face was swollen out and it came straight down on to your shoulders?—A. Yes, my shoulder was swollen, too. The cheeks of my face were swollen out like that (indicating) and it came down.

Q. For the last three months before 2nd October it was particularly bad?—A. Yes.

Q. And this gross swelling you have described was constant during those three months?—A. More or less constant.

40 Q. I want you to listen to this evidence you gave before, and I am going to ask you whether it is correct: "Apart from the swelling did you notice anything else about your mouth . . . it was pus." "During those three months when you were gargling and spitting out pus, did your neck still maintain the same position?—A. Yes." Is that correct?—A. Yes, more or less.

Q. More or less you had pus coming into your mouth over a period of some three months before 2nd October?—A. Yes.

Q. And you had this terrible swelling on both sides of your neck?—A. Both sides of my neck were swollen.

Q. The swelling you have described involved both sides of your neck?—A. Yes, more on the left.

Q. Did you have any indication where the pus was coming from?—A. No, I did not know where it was coming from.

50 Q. How did you know it was pus?—A. Naturally I thought it was pus.

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Q. Incidentally, Dr. O'Hanlon called on you last in 1938, somewhere in the early part of October?—A. Yes.

Q. He next called on you on 1st February 1939?—A. Yes.

Q. He next called on you on 19th September 1939?—A. Yes, I suppose those dates are right.

Q. And then he called on you next on 6th October when you told the story about the rubber tube?—A. Yes.

Q. Why did you not call Dr. O'Hanlon in when you had this gross swelling and pus coming into your mouth for three months?—A. I had drawn Dr. O'Hanlon's attention to my throat so often that I became very 10 tired of pointing it out to him.

Q. But there was another doctor in the town?—A. Yes.

Q. Did you ever call him in?—A. He was called in at the last moment.

Q. During that period?—A. No.

Q. You know perfectly well how it happened that Dr. Cooper called on one occasion?—A. I heard Dr. Cooper say himself he wanted nothing to do with the case; it was more than he could handle.

Q. That was during 1938 and 1939?—A. I heard that when I was in 20 Quirindi Hospital.

Q. He told you that?—A. No, I heard him say it. He was talking to some of the nurses outside.

Q. When was this—in 1938?—A. I do not know the year—yes, when I was in Quirindi Hospital, the first time. Dr. Cooper had been present when I was in the spasm.

Q. You heard him pass some remark like that and that is the reason why you did not call him in in 1939 when you had this pus in your mouth?—A. Yes.

Q. Why did you not call in Dr. O'Hanlon, who is just round the 30 corner from you?—A. Just a couple of blocks.

Q. In a country town, about 4 or 500 yards away at the outside?—A. Yes.

Q. What is the reason you did not call in Dr. O'Hanlon?—A. Dr. O'Hanlon said he could not do any more for me and it was no use paying Dr. O'Hanlon to drive up to my place when he did not do anything.

Q. Did he ever see this pus in your mouth?—A. I do not know. He did not say so.

Q. Did you draw his attention to it?—A. I drew his attention to the 40 state of my throat and mouth.

Q. That is, you say, in 1938 when you had these spasms?—A. Right through the illness.

Q. In 1938 Dr. O'Hanlon attended at your house almost daily after you came out of Quirindi Hospital?—A. I did not have pus in my throat then.

Q. Exactly, and that is why I asked you why you did not call in Dr. O'Hanlon. Let us get this straight and I want you to make sure you follow me. Dr. O'Hanlon called on you almost daily after Quirindi Hospital in 1938 and you were taken to Quirindi Hospital in September 1938 in a spasm?—A. Yes. 50

Q. He then continued to call on you from time to time until somewhere in October or somewhere thereabouts?—A. Yes.

Q. The next time he was called or when you saw him was on 1st February or early in February 1939 ?—A. Round about that time.

Q. Did you have any pus in your mouth then ?—A. I do not remember.

Q. Subsequent to that, some three months or so before 2nd October, you had this swelling which became terrible as you described it ; much worse, you had pus and you were spitting it out of your mouth for a period of about three months ?—A. It would be round about three months.

10 Q. You used to scrape it off your tongue with a brush ?—A. In the later stages I did.

Q. Before 2nd October ?—A. Yes.

Q. And you used to gargle and spit it out in quantities ?—A. Yes.

Q. I ask you again, why did you not, when that condition became evident, send for Dr. O'Hanlon ?—A. Dr. O'Hanlon had told me on more than one occasion he could not do anything more, and I have just explained it was no use calling Dr. O'Hanlon and paying him for nothing.

Q. Had you had any pus in your mouth before that you were spitting out when he told you that ?—A. I do not remember.

20 Q. I mean, you might have had it even in February 1939 ?—A. If the doctor was attending me he should have noticed it.

Q. Yes, but supposing he did not notice it. Supposing you did not tell him about it. Was there pus there then ?—A. I do not know.

Q. As a matter of fact, you say you were a very ill woman at this time ?—A. I was.

Q. All through that year you were a very sick woman ?—A. Yes.

Q. And although Dr. O'Hanlon did not attend to you, I suppose you were taking medicines and so on ?—A. Yes.

Q. I suppose you were taking things to try and look after yourself ?—

30 A. I just continued on with the medicines that the doctors had prescribed.

Q. And that included, firstly, frequent injections of paroidin ?—A. Yes.

Q. And, secondly, the prescriptions given you by Dr. O'Hanlon ?—

A. I do not know which doctors' prescriptions were kept most strictly to. They varied, and sometimes I would try one and then I would try another.

Q. The doctors were Dr. O'Hanlon, who had given you a large number of prescriptions ?—A. No.

Q. Well, quite a number, up to the time that he ceased to call at your house in October 1938 ?—A. I do not know about quite a number.

40 Mr. REIMER : These prescriptions you mention from the doctors are prescriptions either from Dr. Bell or Dr. O'Hanlon ?—A. Dr. Bell and Dr. O'Hanlon, yes, I suppose so.

Q. Was there any other doctor attending you at that time, through all this period that we have been discussing ?—A. No.

Q. Dr. Bell gave you a prescription of calcium lactate and some iodine ?—A. Yes.

Q. In other words he told you to take some drops of iodine, and take calcium lactate tablets ?—A. Yes.

50 Q. Apart from that you were taking mixtures prescribed by the doctors—they would be mixtures that had been prescribed by Dr. O'Hanlon—A. I have taken mixtures but not such a lot.

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Q. During this period you were getting medicine from time to time ?
—A. Yes.

Q. Who was your chemist, where did you get your prescriptions from ?—A. I had prescriptions from several chemists ; mostly from Mr. Davies, and sometimes Mr. Newcombe.

Q. Davies the chemist in Quirindi ?—A. Yes.

Q. That is where you ran an account ?—A. Yes.

Q. When you had Dr. O'Hanlon to call on you, in the early part of 1939, about February, you say at that time you had a very swollen head and neck and you might have had pus in your mouth ?—A. February ? 10

Q. February 1939, yes ?—A. No, I did not have it then.

Q. You had this bad swelling ?—A. Yes.

Q. And you had terrible spasms ?—A. Yes.

Q. And you called Dr. O'Hanlon in ?—A. He was called.

Q. I put it to you that he gave you a prescription on that day, do you remember ?—A. No. He did not give me any prescription.

Q. Did he write out a prescription for you to take ?—A. I don't remember.

Q. Are you prepared to deny he wrote out a prescription which was in the nature of an appetite teaser, in other words something to bring your 20 appetite back ?—A. I don't remember.

Q. Are you prepared to deny that ?—A. I don't remember anything about it.

Q. After the incident of the 2nd October you thought you had indigestion ?—A. Yes—I did not know what I had.

Q. Did you think you had indigestion ?—A. I may have had a slight touch of indigestion.

Q. Did you get your husband to ring Dr. O'Hanlon up ?—A. I don't remember.

Q. Are you prepared to deny that you got your husband to ring 30 Dr. O'Hanlon up ?—A. I don't remember. He may have rung Dr. O'Hanlon up, I do not remember the occasion.

Q. Are you prepared to admit, or do you know that on the 5th October 1939, that is between the day that this thing is supposed to have ulcerated or ruptured through your neck and the day that you saw O'Hanlon, namely, the day that you had this motion in your bedroom in the morning, you got a prescription from Dr. O'Hanlon for indigestion ?—A. No, I am not aware of that.

Q. You have already told me you remember Dr. O'Hanlon calling on you on or about 19th September 1939, and that would be a fortnight or 40 so before this thing ulcerated from your tonsil, as you put it ?—A. Yes.

Q. You then had pus in your mouth for some couple of months or more ?—A. On occasions, yes.

Q. And you had this gross swelling ?—A. What ?

Q. You had this gross swelling ?—A. Yes.

Q. This big swelling at the time ?—A. Yes.

Q. It was obvious to anybody who could see you at the time ?—A. Yes.

Q. And the pus would have been obvious too ?—A. Yes.

Q. Did you tell O'Hanlon about the pus ?—A. As a matter of fact—

Q. Did you tell O'Hanlon about the pus ?—A. On that occasion I 50 had to be propped up in bed to even speak, and I could only speak in a low and light whisper that Dr. O'Hanlon stood back and looked at me.

Q. What did you say when you spoke in a light whisper ?—A. It was just a whisper.

Q. Whisper it now and tell us what it was ?—A. You are complaining now you cannot hear me speak when I sing out.

Q. Tell me what you whispered ?—A. I was trying to tell him how ill I was.

Q. Did you try to tell him about the pus ?—A. I don't remember ; I was really very ill.

Q. Have you got any idea what you said to O'Hanlon ?—A. No, I
10 have not.

Q. Was anybody else in the room ?—A. My daughter was there.

Q. Did you hear your daughter say anything ?—A. I did not hear what my daughter said.

Q. Did the daughter in your presence say anything to the doctor at all ?—A. I don't remember. I was really very very ill.

Q. Was your daughter home on school holidays ?—A. Yes.

Q. On the 19th September ?—A. Yes, she stayed home because I was so ill.

Q. Did Dr. O'Hanlon give you a prescription on that day ?—A. I
20 don't remember the prescription.

Q. Are you prepared to deny that he gave you a nerve tonic on that day, a particularly strong and powerful nerve tonic ?—A. I do not remember the tonic at all.

Q. And a bottle of A.P.C. pills ?—A. I do not remember.

Q. Are you prepared to deny that ?—A. He might have left them or sent them I do not know.

Q. Of course if your evidence is true, O'Hanlon must have realised that you were in a pretty serious condition ?—A. He did.

Q. A serious condition regarding this inflammation and pus ?—A. I
30 do not remember telling him about the pus. I am trying to tell you I could not speak.

Q. If your evidence is true, if your account is correct, it would not require very much telling ; it would be pretty obvious you had something radically and seriously wrong with your neck and face ?—A. Certainly.

Q. And you say Dr. O'Hanlon did nothing whatever to try and relieve your suffering ?—A. He stood back from the bed and looked very worried.

(Mr. Morris James McGrath, solicitor, Sydney agent of
Mr. O'Donnell, solicitor of Quirindi, solicitor for Mr. Davies, chemist
of that town on subpœna duces tecum produced documents to the
40 Court. Mr. Hardwick stated that this was novel, producing something for somebody else, but if Mr. Reimer would agree, to the Sydney agent of the country solicitor instructing me sending the document to Quirindi to-night and having the contents checked with Mr. Davies' register, that he would accept the documents ; but at the present stage he would object to anything being asked until he was satisfied as to the relevancy of the document. Mr. Reimer consented to such a course being adopted.)

Mr. REIMER : Following what I have been putting to you about
50 what O'Hanlon did or did not do in regard to your neck and throat, are you prepared to admit that from the time that you were in Quirindi Hospital until this event took place in October 1939, neither Dr. O'Hanlon

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nor anybody else prescribed any treatment of any kind at any time for your neck and throat?—A. No.

Q. That is correct?—A. I had treatment but I do not know just who prescribed it.

Q. Treatment that you applied yourself, or what?—A. That I applied myself, and some other prescription, and so on. Those are not the only prescriptions that we have, and those would not be the only bills. We mostly paid cash for everything. They would be the things we rang up and sent for.

Q. That does not answer the question I put to you. Did you receive 10 any treatment from Dr. O'Hanlon for your neck and throat?—A. No, I did not receive it, but I saw Dr. O'Hanlon during that time.

Q. Did you receive any treatment?—A. Well, no.

Q. As far as you know he prescribed no particular medicines, or lotions or anything like that for your neck or throat?—A. No.

Q. Nobody else, other than Dr. O'Hanlon, attended to you during that period?—A. Well, no, there was not.

Q. That brings us up to the 2nd October. On the 2nd October what room in the house were you occupying?—A. A back room.

Q. Were you occupying the room with your husband?—A. Yes. 20

Q. By the way, you gave certain evidence on the previous occasion in relation to the lay-out of your home?—A. No, I do not remember giving evidence on the lay-out.

Q. Do you remember giving any evidence of the details in your house?—A. No, I did not.

Q. You remember of course giving a very detailed description of how you lost this tube of yours?—A. Yes.

Q. You described how with your left hand you reached up and got the ring and pulled it down?—A. Yes.

Q. And as you pulled it down it slipped from your fingers and went 30 into the lavatory and you lost it?—A. Yes.

Q. You said at the last hearing that the ring hung straight over the centre of the pan?—A. No.

Q. Do you deny that?—A. Yes, the ring—

His HONOR : First of all you are not asked what is the real position, but what you said, if you can remember, at the last hearing?—A. I understand now.

Mr. REIMER : Do you deny that you said in answer to His Honor Mr. Justice Street, that the chain is hanging straight over the centre of the pan?—A. Yes. 40

Q. You deny that?—A. No, I do not deny it.

Q. Will you admit that you said that?—A. Yes ; I still say it.

Q. I suppose in your lavatory there is a cistern somewhere up near the top?—A. Yes.

Q. I suppose it has an arm that comes out upon which there is attached a chain?—A. Yes.

Q. And on the chain there is a ring?—A. Yes.

Q. Do you say that arm and chain hung straight over the centre of the pan?—A. No.

Q. Did you on the previous occasion give evidence that was the 50 position?—A. No.

Q. I want to read to you certain questions that were put to you by His Honor Mr. Justice Street on the previous occasion. Do you remember at the end of your cross-examination being asked certain questions by His Honor?—A. I do not remember the questions. I remember His Honor asking me questions.

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Q. You remember him asking you questions?—A. Yes.

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Q. I will read the questions and the answers:

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“Q. Go back to the morning of the 5th October. You had been suffering a good deal of pain and discomfort for about 18 months?—A. Yes.

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Q. And you thought there must be something fairly serious the matter with you?—A. Yes.

Q. And you thought also that you had swallowed some foreign body that came from your throat about two days beforehand?—A. Yes.

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Q. Were you expecting that this foreign body would be likely to emerge because of the aperient you had taken?—A. I did not know.

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Q. Did you think it might?—A. I thought it might.

Q. So it was a matter that you had present to your mind that this foreign body might pass through?—A. I thought the day before.

Q. Had you taken an aperient the day before?—A. Yes.

Q. And then you had taken another one?—A. Yes.

Q. Why did you take the last one if you did not expect a foreign body to pass through?—A. I still had a pain.

Q. Did it not occur to you that the foreign body might still be there?—A. Yes, but I had no idea that it would not dissolve.

30

Q. You gathered that something might pass?—A. Yes.

Q. And when you saw this object in the pan on the morning of the 5th, did it cross your mind then that this was the object apparently that you had swallowed?—A. Yes.

Q. And this pan that you were taking out to empty, what sort of handle did it have?—A. It was somewhat the same shape as a cup with a cover.

Q. Not a loop handle over the top?—A. No, on the side.

Q. So that you would hold it in one hand?—A. Yes.

Q. And you had it in your hand when you went to the lavatory and you saw this apparent object in it?—A. Yes.

40

Q. And then you were surprised by someone approaching?—A. Yes.”

Stopping there; so far everything is quite right—those answers all truthful?—A. Yes.

Q. “Q. Didn't it occur to you to go inside and close the door and wait?—A. I was so startled at seeing it.

Q. I thought you told me you thought some object would come through?—A. I really was not expecting to see it.

Q. When you saw something there did not you think ‘This is the thing I have been looking for’?—A. I did think that.

50

Q. Didn't it occur to you then to put down that pan at once and get someone to come and see it?—A. I was so startled that I did not think of it.

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Q. Startled by someone approaching?—A. No, startled by the sight of the thing in my hand. I had no idea what it was.

Q. Then you say someone came towards you?—A. Yes. There are 13 or 14 steps at the back of my place, and I heard them coming up the steps.

Q. Didn't it occur to you to go inside and shut the door and wait until they had gone?—A. I did not shut the door. You would under certain circumstances, but I was so slow in moving that it was difficult for me to get out of the room.

Q. When you poured this pan that you were carrying in your 10 hand into the lavatory bowl, you still held it in your hand and pulled the chain with your other hand?—A. Yes.

Q. Was your hand at the time holding the foreign object?—A. Yes, I was really leaning against the door.

Q. Was the door shut or open?—A. It was open; I had to stop inside.

Q. And did you stay in then to empty this pan and pull the chain so that if anyone came up the steps you would be in full view?—A. I stood in the door and I had to turn round and close the door or I would have fallen out, I was very, very weak. 20

Q. And the importance of it did not strike you at the time?—A. No, not at the time.

Q. Neither did it strike you as important to get the doctor immediately?—A. Not immediately, because Dr. O'Hanlon we had sent for him so often that he said he could not do anything.

Q. Because he said he could not do anything for you?—A. Yes.

Q. This was a new and very important development. Wasn't it?—A. Yes.

Q. Something that surprised and startled you?—A. There 30 had been other things that had surprised and startled me but doctor did not seem able to do anything about it.

Q. You thought it was a foreign body that had come from the spot in your neck where this operation had been performed?—A. Yes.

Q. And did you at that time when you first saw it, connect it in your mind with the operation?—A. No, not immediately.

Q. Did you have any idea of what it could possibly be?—A. No.

Q. And it did not occur to you to put that pan down at once 40 and leave it there until Dr. O'Hanlon or someone came and saw it?—A. No, it all happened so quickly.

Q. How did it come to slip out of your hand?—A. I had it in my fingers and I tried to pull the chain."

Is that all correct so far?—A. Yes.

Q. All that truthful evidence?—A. Yes.

Q. You had it between your thumb and forefinger?—A. Yes.

Q. And you tried to pull the chain with the other three fingers?—A. Yes.

Q. Is it a ring on a chain?—A. Yes. 50

Q. And you tried to put your fingers in the ring?—A. Yes, I could not stand up straight or erect. I was leaning against the wall, really.

Q. And did you pull it towards you, the chain?—A. No, I pulled it straight down.”

Is that correct?—A. Yes.

Q. “Q. Does it hang over the pan?—A. It hangs straight over the pan, straight over the top of the pan, the seat of the pan was turned back at the time.”

That is the evidence you gave before?—A. Yes.

Q. Is that true, Madam?—A. Yes; I would still say the same, but I did not say where the chain was connected with the cistern, and I did not

10 mean it was connected straight over the pan; no one asked me.

Q. “Q. As you pulled the chain it fell from your fingers?—A. Yes. It was before it hit the water that the water was running.

Q. You had pulled the chain?—A. Yes.

Q. What did you do after that; did you shut the door?—

A. No, I went back on to the verandah.

Q. And when did you see who it was coming up the steps?—

A. When Mr. Hocking came in.

Q. So that as soon as you came back from the lavatory you saw your husband?—A. By the time I got out of the lavatory he stepped on to the verandah.

20

Q. Before then you did not know who it was?—A. I thought it was he.

Q. You could not see him as he went into the kitchen?—

A. No. I was still in the toilet.

Q. He could not see you?—A. No.

Q. Did you tell him at once about this object?—A. Yes, that is when I drew the sketch.

Q. It was that morning that you drew the sketch?—A. Some time during the day.

30

Q. And it was the following day you saw Dr. O’Hanlon?—A. Yes.”

Q. You did on the previous occasion give evidence that you pulled the chain straight down?—A. Yes.

Q. And you also gave evidence that chain hung straight over the pan?—A. Yes, but I did not say the chain was connected to the cistern. I still say the same.

Q. And that is the position to this day?—A. Yes.

Q. Incidentally you know, I suppose, the type of cistern you have in your lavatory?—A. Yes.

40

Q. Do you happen to know the name of it?—A. No.

Q. Ever looked for it?—A. No.

Q. You know it is the type of cistern installed throughout the district?—A. No, I could not say it was the same type.

Q. You know there are some special Council requirements with regard to cisterns in Quirindi?—A. Yes.

Q. Is that a fair representation of the cistern (shown)?—A. Similar to that.

Q. You kept that chain and pulled it straight over as I did. And the arm of the cistern is in the same position as that?—A. I—

50

Q. On the right-hand, when you stand looking at the cistern?—A. Yes, but it does not appear to be the same shape as that. It is similar to that.

(Above document m.f.i. (3).)

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*No. 3.
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*Stella
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Cross-
examina-
tion,
continued.*

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Wales.*

*Plaintiff's
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Stella
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Hocking,
14th August
1942,
Cross-
examina-
tion,
continued.

Q. You know an application was made for permission to allow a representative of the Defendant to inspect your house—Counsel and solicitor?—A. Yes.

Q. And you refused it?—A. I did not refuse it.

Q. You know it was refused on your behalf?—A. Yes.

Q. By your legal representative acting on your behalf?—A. Yes.

(Further hearing adjourned until 10 a.m. on Friday, 14th August 1942.)

IN CAUSES.

Coram : HERRON, J. and a Jury of Four.

HOCKING V. BELL.

THIRD DAY—Friday, 14th August 1942.

10

PLAINTIFF :

Cross-examination continued :

Mr. REIMER : When you were in St. Luke's Hospital in 1938 following the operation, and you told us how Dr. Bell tried to remove this tube, did Dr. Bell ever touch the tube prior to the occasion when you say he pulled this thing out in the way you have described?—A. I do not remember ; it was the only occasion I remember the doctor mentioning the tube or touching the tube.

Q. During the day or two between the removal of the tube and the operation, do you remember any of the nurses touching the tube, apart from putting dressing over it?—A. They were dressing my throat, but there was no mention of the tube.

Q. Just put dressings on and off?—A. Yes, and would sometimes pick it round, touch around with the forceps, or swab away with cotton wool in a pair of forceps.

Q. And that is all they did as far as you noticed?—A. Yes, as far as I am able to remember.

Q. When this tube was removed was there a nurse in attendance with a tray, and there were forceps and dressings and so on in the tray?— A. The tray was up above me and I did not see what was on it. The nurse was standing and I was in bed.

Q. Can you describe Sister Ward?—A. A medium type of woman, I should say middle age.

Q. Dressed as a sister?—A. She did not wear the same uniforms as St. Luke's Hospital.

Q. What was the difference?—A. There was something different, but I could not just say what it was.

Q. Did she attend to you on other occasions?—A. Yes, but not regular attention. She was there from time to time while I was in St. Luke's Hospital.

Q. And you could identify her quite well?—A. I would not say I could identify her.

Q. At any rate you remember her distinctly?—A. No, I don't.

Q. Was she tall or was she short?—A. She might be a little taller than I, and she was much stouter.

Q. You have mentioned that when you were in the Quirindi Hospital in 1938 various members of the hospital staff would massage you when you had spasms?—A. That is so.

Q. You told us on a prior occasion that at home Sister Sly, and at a later stage your own sister and your husband, used to massage you whenever you had one of those spasms?—A. Yes.

Q. And the massage would be applied to any portion of your body that was involved in the spasm?—A. Yes.

10 Q. You told us on another occasion that your head and neck were massaged very frequently?—A. That is right.

Q. And you got relief from this massage?—A. Yes, got relief from rubbing upwards.

Q. You would be taken in a spasm rather suddenly?—A. Yes, it would come on suddenly.

Q. And whoever was there would massage you?—A. Yes.

Q. And the fact is that the application of the massage would have the effect of eliminating the spasm?—A. It would help.

Q. And the more the massage was applied the less the spasm became?—A. That is correct.

20 Q. And gradually the spasm disappeared during the massage?—A. Yes, but massage might have to be carried on for quite a long time before the spasm disappeared.

Q. Would you say it might have to be carried on for half an hour?—A. The time varied.

Q. At all events the massage would be applied continuously until the spasm disappeared?—A. That is so.

Q. And your muscles or limbs as the case may be returned to normal use?—A. Yes.

Q. You mentioned the question of massaging your neck?—A. I did.

30 Q. These different people, including your husband, did massage your neck very frequently when you had these spasms?—A. My neck was massaged on a number of occasions by my husband and others. They started to massage my face in the hospital, and that is from where my husband got the idea.

Q. And the massage would be not only your face but your neck and both sides of your neck?—A. I don't remember both sides, but I know that the left side was massaged upwards always.

Q. Was that massage fairly firm?—A. No, it was very gentle.

40 Q. How gentle?—A. It was just slight. I could not stand anyone to touch me on the left side, and when I was conscious they could not rub me at all; it was only when I was unconscious that they were able to do it.

Q. Then how do you know that they did this if you were unconscious?—A. I was told that they did it.

Q. Have you ever been aware of the fact of them giving you massage?—A. Yes, if I was not in a very bad spasm I would be quite conscious.

Q. When you were not in a spasm your neck and throat were so tender that you could not bear anyone to touch it?—A. I could not bear anyone to rub it, to press hard.

50 Q. Was it tender to touch?—A. Yes, very tender.

Q. Was it particularly tender on the left side?—A. Yes, it was the left side.

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tion.
continued.

Q. And whereabouts did you find that it was the most tender of all ?
—A. On the side of the throat, just about the spot where I am now placing my finger.

Q. How far above where the original incision had been made ?—

A. It might be an inch but I did not measure it.

Q. And that you say was the part that was particularly tender ?—

A. That is correct.

Q. And that was so at all times during this period ?—A. Yes, it was the most tender at all times.

Q. Right up to October 1939 you still had this very tender spot where 10
you have indicated ?—A. Yes.

Q. That tender spot would be an inch to an inch and a half ?—A. Where I am now indicating, pointing out with my finger.

Q. When you came out of Quirindi Hospital you had Sister Sly, and according to the information you supplied in the particulars she was with you from the day you came out of Quirindi Hospital on the 9th June until the 14th July ?—A. I suppose that would be right, but I do not know the dates.

Q. And thereafter you had your sister in the house for a while ?—

A. Yes, she stayed with me for quite a while. 20

Q. For how long would you say she stayed with you ?—A. Perhaps a couple of months.

Q. That would take it to somewhere in September 1938 ?—A. I think it was round about October.

Q. And from October 1938 until October 1939, you and your husband lived in the home by yourselves ?—A. Yes.

Q. Apart from the occasions when you had Mrs. Fisher coming in to give you daily assistance ?—A. Yes, my daughter was at boarding school and only at home during the school holidays.

Q. I want to get this quite clearly from you—during the period from 30
September 1938 to October 1939, you had spasms very very frequently ?
—A. Yes.

Q. Would you say almost every day ?—A. No, sometimes I might go a week or two or three days.

Q. Sometimes you would not have them every day for quite a long period ?—A. Towards the end of the year, yes. They became worse and more frequent towards the last three months.

Q. May I take it that in the last three months you had the spasms practically every day ?—A. Not every day.

Q. But frequently ?—A. Very frequently. 40

Q. And during the same period, I take it, you had that swelling you have mentioned ?—A. Yes.

Q. Are you able to describe the swelling that you had in the last three months prior to the 2nd October 1939 ?—A. My face and eyes were very swollen. My face was puffed right out, and my neck was swollen right out. The shoulders—the left one especially—would be like a hunchback.

Q. Was that the condition for three months prior to the 2nd October ?
—A. Sometimes it would go down and I would think I was getting a little better, and then it would swell up again. 50

Q. How long would it take to swell up and go back ?—A. Perhaps it would take a couple of weeks.

Q. On the 2nd October were you in a swollen condition?—A. Yes.

Q. And during this period of 12 months from September 1938 to October 1939, were you able to get about at all?—A. No.

Q. Were you able to get out of the house?—A. No, I was never out of the house.

Q. Did you spend most of your time in bed?—A. I was more or less in bed or round the verandahs.

Q. Were you able to dress yourself?—A. I was never dressed. I had a dressing gown that I could get into comfortably, and I almost lived in that when I was out of bed.

Q. May I take it that during that period you never went out of the house dressed, or anything like that?—A. Only on one occasion.

Q. When was that?—A. I do not know the date.

Q. Where did you go?—A. I went down to see O'Hanlon.

Q. And did you see him?—A. I did.

Q. Would that be the occasion you referred to in February 1939?—A. Yes, I felt a little better. Dr. Bell had written to me and asked what Dr. O'Hanlon thought of me. I had not seen Dr. O'Hanlon for some time, so my husband said: "Put on your coat and I will drive you down; the doctor says that you should try to get out in the car." He drove me

20 down to see Dr. O'Hanlon and I was in bed for a fortnight after that, and then Dr. O'Hanlon was called.

Q. Did you go to the pictures at all during that period?—A. Never at any time through that period.

Q. At no time?—A. I was not at the pictures for two years.

Q. When evidence was given on the last occasion you heard a Mrs. Fisher who was in your employ say that she had called at your house on several occasions?—A. Yes.

30 Q. And that the house was all locked up and that she could not get any answer to her knock?—A. Yes, but I was in the house at the time and was unable to get up and answer the door. I did not know who was at the door to say "Come in," but I heard the knock.

Q. Why was the door locked?—A. The back door was locked, and the front doors were closed, but the side doors were open.

Q. Do you remember Mrs. Fisher or anyone else coming round and trying to see you and not being able to raise anyone?—A. I did not know it was Mrs. Fisher. I heard the ringing of the door bell, but I did not know who it was and I was quite unable to get out of bed.

40 Q. You told us on the last occasion you gave your evidence that during this period your hands received so many spasms that you could not write?—A. Yes.

Q. You do remember that?—A. Yes.

50 Q. On the last occasion you were asked: "You say it may have been 12 months before," referring to a letter that you had received from Dr. Bell, and your reply to that question was "Yes." Then the next question that you were asked is "Is that your idea, that you were writing to thank him for a letter that you had received 12 months before," and the answer to that question is "For a long time I could not use my hands to write a letter." Didn't you mean to convey by that answer that for a long time you were unable to answer Dr. Bell's letter that you had received 12 months before because you could not write?—A. Yes.

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tion,
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Q. And you could not write because you could not use your hands ?—

A. I would start to write a letter—

Q. You could not write because you could not use your hands ?—

A. I might start to write and might write two or three words and perhaps I could not write any more for that day.

Q. As a matter of fact you did write a letter to Dr. Bell in May or June 1939 ?—A. Yes, but I did not say how long it took me to write that letter.

Q. Is it not a fact that you wrote a letter to Dr. Bell in the middle of 1939 ?—A. I think I mentioned in the letter— 10

Q. Didn't you write a letter to Dr. Bell in the middle of 1939 ?—

A. I did, and I think I mentioned in it that I was feeling a little better.

Q. And you made reference to the spasms that you had on occasions ?

—A. That is so.

Q. You told Dr. Bell something about how you were feeling generally ?

—A. I just do not remember.

Q. Did you say one word about anything in the nature of a swelling ?

—A. I do not remember.

Q. Did you say one word about the fact that you could feel something sticking into your neck when you turned your head sideways ?—A. I don't 20 remember.

Q. Did you say one word about the fact that at that time you could not move your head sideways, but had to go about with your head in the one position ?—A. I don't remember.

Q. Are you prepared to admit that you probably did not ?—A. I probably did not.

Q. You say you probably did not ?—A. Yes, but Dr. O'Hanlon said that he would tell Dr. Bell anything that was necessary.

Q. Do you remember that you received a letter dated 27th May 1939, in reply from Dr. Bell. I would like you to look at the letter I hand you. 30 Did you receive a letter of that date from Dr. Bell stating: "Dear Mrs. Hocking, many thanks for your letter. I am glad to see that your writing is so good. I only wish some of the medical students could write as clearly as you do. I hope you will be able to take up tennis next summer. I was talking to Sir Allen Newton in Melbourne about a similar case to yours. He is a great believer in cod liver oil and calcium, and he puts his patient on his treatment. I saw another patient some time ago, and she has completely recovered. I will write to Dr. O'Hanlon. I told Dr. Ritchie that I had heard from you. Best wishes, Yours sincerely, George Bell." You received that letter from Dr. Bell in May 1939 ?— 40

A. Yes.
Q. Did you write back one word about your condition that you have told us of here ?—A. I don't remember what I wrote.

Q. Did you answer that letter at the time at all ?—A. I could not say whether I did, but I know that I wrote very few letters during my illness.

Q. You did write a letter to Dr. Bell at a later stage ?—A. That is so.

Q. That is after this tube incident ?—A. Yes.

Q. And his words in the letter were: "Thanks for your letter received some time ago" ?—A. Yes, I remember that.

Q. On the occasion of the last hearing you said that you were referring 50 to a letter that Dr. Bell had written 12 months before ?—A. It was some time before.

Q. Is that the letter that you are referring to, what I have just read ?—
A. It may be.

Q. Have you any other letter received from Dr. Bell in the meantime ?
—A. I don't know.

Q. Are you prepared to admit that you did not receive any other
letter from Dr. Bell in the meantime ?—A. I don't think I did.

Q. You don't think so ?—A. No, but my husband heard from Dr. Bell.

Q. Not only did you write to Dr. Bell but you also wrote to
Dr. Ritchie ?—A. Yes.

10 Q. When was that ?—A. I think it was about the same date.

Q. Look at the letter I am now handing you. That is a letter you
wrote to Dr. Ritchie on the 6th May ?—A. That is so.

Q. That is not bad writing, is it ?—A. It is quite all right I suppose.

Q. Is it not as good as any writing you have ever written ?—A. Oh no.

Q. Can you point out anything there which indicates that you are
suffering from inability to use your hands or anything like that ?—A. On
occasions I could use my hands, but I may have been several days writing
that letter.

20 Q. Did I hear you just now say that it took you seven days to write
that letter ?—A. No, I said it may have taken several days.

Q. Why do you say that ?—A. At first I could not use my hands at
all. When my daughter went away to school she used to be very worried
when she could not hear from me, and only hear from her father, so I tried
to write to her. I have been as long as seven and eight days writing one
letter. If I became a little better I would write a letter and leave it until
I have received a letter from my daughter and then put a date on my
letter and send it.

30 Q. What has that to do with the letter you wrote to Dr. Ritchie ?
Do you say that that applied to the letter that you wrote to Dr. Ritchie ?—
A. It could have done.

Q. You say it could have done ?—A. Yes, it was the usual thing at
that time.

Q. Did you ever have a party in your house at that time ?—A. No, I
have never had a party at any time.

40 Q. On the 6th May did you write to Dr. Ritchie: "Sorry for the
delay in sending the fee that you will find enclosed"—that is the fee in
connection with his attendance on you during the period you were in
St. Luke's Hospital when the operation was performed ?—A. Yes,
Dr. Ritchie was teasing me about my illness and I said I would not pay
him until I felt better. That is when I was in the hospital. So I waited
until I felt a little better to send Dr. Ritchie his money.

Q. You kept your word ?—A. Yes, I just kept my word.

50 Q. What you wrote was: "I have been waiting for the return of my
voice that you teased me about. It is much better than when I left
St. Luke's. I would not be of any use in the church choir yet although
now—don't laugh—I had visitors the other night, and one of the
gentlemen said: 'Gosh, but you are beautiful.' But, doctor, I was not
flattered. He had had too much cherry brandy. The year has passed
but I am not yet well. I don't think you are a good prophet but you
were right when you said that I should not leave St. Luke's. It is a case
of we live and learn. Yours sincerely." Do you suggest that at that
time you were in a position that you are trying to get these jurymen to
believe ?—A. Yes, I was in a very swollen condition.

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Q. Why didn't you mention it to Dr. Ritchie and/or to Dr. Bell?—
A. Dr. O'Hanlon had told me on more than one occasion that he was telling the doctors everything that was necessary, and that there was no need for me to do so.

Q. Was there a gentleman who commented on your appearance and said how beautiful you were?—A. Yes.

Q. Who was it?—A. A friend who at one time worked in the same shop as my husband.

Q. What was his name?—A. Mr. Nancarrow—he and his wife and children came. 10

Q. Did he visit your home on this particular evening to which you are referring?—A. Yes, he came from Tamworth.

Q. And his family?—A. Yes, he had his family with him.

Q. Were you in bed?—A. I put on my dressing gown and got up.

Q. Were you in bed when they arrived?—A. Yes.

Q. What time was it?—A. It was in the evening.

Q. After tea?—A. I think it was before tea, or round about teatime, but I could not say exactly.

Q. You got up, and I suppose you went into your sitting room and sat with your husband and your friends?—A. I was wrapped up on the lounge settee. 20

Q. Did you join in the refreshments that were apparently going round?—A. No.

Q. Do you suggest that this man at the time was under the influence of liquor or anything like that?—A. Yes, just a little.

Q. Was he quite all right when he arrived at your house?—A. No, but he was a little better when he left.

Q. You did not supply him with anything?—A. No, he did not get any at our place.

Q. You say that at that time you were in the condition that you have told us of?—A. Yes. 30

Q. Were there any other men at your house that night?—A. There was only my husband.

Q. When I asked you yesterday about having ringing noises in the ear and head you said that it did not occur when you were in the Quirindi Hospital in 1937, as I have suggested to you, but you said that that was later?—A. Yes.

Q. When did you have noises in the head?—A. After I had been given an anæsthetic as the result of a tetany turn. That is the only ringing that I remember, the only noises. 40

Q. Did you at any later stage when you were at home in 1938 or 1939 have any noises in the head?—A. No.

Q. Did you suffer from any headache at the time?—A. I had pain all up my head, but not what you would call a headache.

Q. I want you to understand that I am not endeavouring to trap you, and I want to give you every opportunity. You have told us at various times different ages that you are. Have you any reluctance in regard to telling your correct age?—A. No, I did not know that I told you anything but my correct age.

Q. On any occasion that you have mentioned your age I take it that you have not been trying to pretend that you were younger than you actually were?—A. No. 50

Q. Have you ever told your age to anyone which was your honest belief at the time?—A. I have only been asked my age in Court as far as I know by you and, I think, by Mr. Monahan.

Q. How old did you say you were?—A. Forty-four.

Q. I suppose you will admit that when you saw Dr. Bell on the 21st February 1938 he asked you your age?—A. I don't remember it.

Q. At that time you were 41 years of age?—A. No, I could not have been 41 then.

10 Q. Will you deny that on the same day you told Dr. Ritchie that you were 35?—A. Yes.

Q. A little more than six months ago, about the 12th or 13th of December last, you were giving evidence in this very witness box?—A. That is so.

Q. And in this Court you gave your age as 40; is that right?—A. Yes.

Q. You swore on oath that your age was 40 years?—A. Yes, but in reply to what question? I know that I did not understand the question. I thought it was the beginning of my illness.

20 Q. Do you remember that you were asked by Mr. Monahan something about this poisoning and tampering with your food, and your answer was: "I said my food had been tampered with"?—A. Yes.

Q. Then you were asked: "And didn't you say it was your husband who had done it"?—A. Yes, I was.

Q. And your answer was "No"?—A. Yes.

Q. Then the question asked you was: "Who was it then?" and the reply was: "I don't know"?—A. Yes.

30 Q. You were then asked: "Do you mind telling us how old you are," and the answer was: "I am 40." The question then put to you was: "Your birthday is in October," and the answer was "Yes." Then you were asked this question: "It was last October that you were 40," and your reply was "Yes." That is what you swore on oath in this Court approximately six or seven months ago, and that was not true?—A. Mr. Monahan was jumping down my throat. I told my counsel about it when I went out and asked their opinion about the matter, and they said that they did not see that it mattered very much. I did not say that as being my right age at the time; I thought it was my age at the time of my illness.

Q. The next question asked was: "Your last birthday was in October, when you were 40," so that little explanation won't fit?—A. That is the explanation whether it fits or not.

40 Q. As a matter of fact you were born on the 2nd October 1896?—A. On the 2nd October 1897.

Q. Have you always been of that belief?—A. Yes, and that is what is in the family bible.

Q. You were married on the 22nd April 1919, and is it correct that in your marriage certificate you gave your age as 22 years?—A. I did not give my age at all. My husband did that, and that is not right, because it should have been 21.

Q. Would you be surprised to know that you were born in 1896?—A. Yes, very much, I had no idea of it.

50 Q. Look at the copy birth certificate that I hand you. Will you tell me if that is a certified copy from the Registrar General's Department of the registration of your birth? (Objected to.)

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Q. Do those particulars relate to you?—A. It is my name, but I do not know that I was born in 1896.

Q. In 1937 just before you went to Dr. Bell, in the Quirindi Hospital you mentioned your age as 34 years?—A. I never gave my age at Quirindi Hospital.

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Q. If you did give different ages at different times it was not because you were trying to appear younger or anything like that?—A. Certainly not, I say I never at any time gave my age at Quirindi Hospital.

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Q. I should like you to look at the photographs that I am now showing you. Do you admit that this first one is a photograph of the side 10 of your house?—A. Yes, I saw it being taken.

Q. You saw it being taken?—A. Yes, and I say that it is a very good photograph.

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Q. I would like you to tell me the name of the street that runs down the side?—A. It is North Street.

Q. I understand your house faces Hill Street?—A. Yes.

Q. And there is a street that goes down the side?—A. That is so.

Q. And then there is a vacant allotment between your house and North Street?—A. That is right.

Q. And this photograph that I am now showing you would be taken 20 from the direction of North Street?—A. Yes.

Q. I now show you another photograph showing the whole of the side of the house taken from the direction of North Street—do you recognise that?—A. Yes.

Q. And the one I am now placing before you is a photograph of the other side of your house?—A. It is.

Q. And that is taken from the direction of Hill Street down past your garage?—A. Yes.

Q. And the picture I now show you is a photograph showing the rear of your house?—A. That is right. 30

Q. It shows the steps going up to the back, and it shows the tank and so on?—A. Yes.

(Group of photographs m.f.i. 4.)

Q. I understand that this side of your house that faces North Street has a verandah?—A. It has.

Q. Will you tell me whether that verandah has lattice work throughout its length?—A. It has.

Q. The lattice work varies in mesh?—A. Yes.

Q. Some of the lattice work is finer than other parts, as is clearly shown in the photograph?—A. I think it is finer in the front. 40

Q. Does your front door come from that side verandah into the side of the house?—A. No.

Q. At all events the lavatory is in the rear portion of that side verandah?—A. Yes.

Q. It shows where the piece of fibro cement structure is in the corner, and the air vent goes up the back of the house?—A. Yes. That is correct.

Q. The door of the lavatory faces towards the front of the house?—A. That is right.

Q. Not towards the back verandah?—A. That is so.

Q. And there is a gap between the corner of the house and the corner 50 of the lavatory?—A. Yes.

Q. A gap where you could see through and walk through?—A. Yes.

Q. What would be the approximate distance across there?—A. I have not measured it, so perhaps you could say.

Q. I have not measured it either so perhaps you could say?—A. It may be 1 feet.

Q. How wide is your back verandah?—A. Between 6 and 8 feet.

Q. And the length of the lavatory, from the pedestal to the door is about what?—A. I could not say exactly.

Q. Would it be about 6 feet?—A. It may be a little more than 6 feet.

10 Q. So that if one takes a line from the back of the building alignment on the back verandah, and a line of the lavatory they are pretty close together in line—do you follow what I mean?—A. I do not.

Q. No, perhaps you don't. I would like you to look at the rough sketch I now show you and tell me whether it fairly represents the lay-out of your home. There is a porch in the front which I will mark with the letter "A," and what I now point out to you is a bedroom which I will mark "B/1"?—A. Yes, that is right.

Q. Where I put the letter "C" is a hall?—A. Yes.

20 Q. And would the bathroom be where I am now marking the sketch with the letter "D"?—A. Yes.

Q. The room at the back which I will mark "B/2" is, I suppose, what you would describe as the back bedroom?—A. Yes.

Q. The room on the top at the other side I will mark "B/3." is that a bedroom too?—A. Yes.

Q. What is the next room?—A. Lounge.

Q. I will mark that with the letter "L." The one behind that I will mark with the letter "K" for kitchen. On the side of the house nearer North Street you have a porch near the hall, and I have now marked that with the letter "M"?—A. Very well.

30 Q. The lavatory is in the position shown there, and I will mark that "W/C" and the steps are approximately in the position running from the back verandah, which I mark "B/V" on the sketch down into the back yard?—A. Yes.

Q. The line of the back building where I point out and the wall of the kitchen and the back bedroom would be just a little further out than the door of the w.c. You say that your verandah is about 6 or 8 feet deep, and that your lavatory is about 6 feet?—A. Oh no, the lavatory is not 6 feet.

40 Q. How deep would you say the lavatory is?—A. It might be 7 feet across there.

Q. The pedestal in the lavatory is opposite the door, and the cistern is above that at the back of the w.c.?—A. Yes.

Q. As you go in the lavatory the chain is on the right-hand side as you face the cistern?—A. Yes.

Q. The door of the lavatory opens back towards the back steps?—A. Yes, against the wall.

Q. What are the steps at the back?—A. Cement.

Q. On the 2nd October what room were you occupying?—A. The room you call the back bedroom, marked "B/2" on the plan.

50 Q. Is there a double bed in that room?—A. There was at that time.

Q. Was the position of that bed across the corner of the room at the time? When you were at Quirindi the other day when the evidence of a Mrs. Fisher was taken on commission was that so?—A. Yes.

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Q. You saw Mrs. Fisher draw the position of the bed. Was its position any different from the 2nd and 7th?—A. I did not see it; I did not see how Mrs. Fisher drew it.

Q. Was it in the same position on the 2nd as on the 7th?—A. I don't remember it being moved.

Q. Is it correct that the bed was across that corner as I point out on this occasion?—A. I thought it was down from the corner.

Q. Is there a door on to the back verandah?—A. Yes, where I point out.

Q. Would the head of the bed be in the corner that I now indicate?— 10
A. More toward the window, but approximately in the position you are now showing.

Q. The head of the bed being where I put the letter " X " ?—A. Yes.

Q. Is that better where I have shown it now, the head of the bed would be where the " X " is?—A. Yes.

Q. Alongside the bed there is a window on to the back verandah, and the door is over on the side of the verandah?—A. Yes.

Q. The only other door in the room is the door into the bathroom?—
A. It does not seem as far as that.

Mr. REIMER: You have told us with regard to this occasion on 20
2nd October that for two days you were constantly drawn up in a ball?—
A. Yes.

Q. That you had been in bed for several weeks?—A. Yes.

Q. That your limbs had not been straight for two days or more?—
A. Yes.

Q. You mean by that that you had a continuous spasm for about two days?—A. Yes.

Q. And that spasm had involved your arms and your legs?—A. Yes.

Q. And your knees had been drawn up towards your chin?—A. Yes.

Q. You lost consciousness on a number of occasions during those 30
two days?—A. Yes.

Q. You had no help in the house at the time?—A. No permanent help.

Q. You had nobody at that time coming in to do housework for you, during those few days?—A. It may not have been during those few days.

Q. Don't you agree that Mrs. Fisher came back to your house on the 7th October?—A. That was to permanent work.

Q. Don't you agree that she had called occasionally on odd days during the previous May and June, and between approximately July to October she had not done any work for you?—A. She had, she had been 40
there on several occasions.

Q. Who was getting the meals for you, looking after you in bed during those two or three days?—A. All the meals that were necessary my husband got. I had very little meals.

Q. On the 2nd October, or a day or two before, you and your husband had been occupying the same bed?—A. Not constantly.

Q. During the days immediately before the 2nd October?—A. Yes.

Q. The night before, and the night before that, you and your husband occupied the same bed?—A. Yes.

Q. In that back bedroom?—A. Yes.

Q. At that stage you had not considered calling Dr. O'Hanlon?—
A. I had often thought of Dr. O'Hanlon. Dr. O'Hanlon said he could 50

do nothing for me, so what was the use of calling him and paying him for nothing.

Q. The fact is you did not call him ?—A. I did not, no.

Q. During the course of the 2nd October you lost consciousness on many occasions in the morning and in the early part of the afternoon ?—A. Yes.

Q. You were in and out of consciousness and unconsciousness all the time ?—A. Yes.

Q. Drawn up in the ball you have described ?—A. Yes.

10 Q. Your husband comes home about 3 o'clock ?—A. Yes.

Q. You then are in one of these spasms ?—A. Yes.

Q. Your jaws were locked ?—A. Yes.

Q. You had got lock-jaw, is that right ? (Objected to.)

His HONOR : You are being asked the question whether your jaws were stiff ?—A. Yes.

Mr. REIMER : Your teeth were clenched ?—A. Yes.

Q. You could not open your mouth ?—A. My teeth were not clenched, because I had to breathe through my mouth. My teeth were slightly parted.

20 Q. You could not move your lower jaw ?—A. No, I could not move my lower jaw.

Q. How long had you been in that position, that you could not move your lower jaw ?—A. I had no idea of the time ; it would get a little better and then worse.

Q. Would it be more or less in the same position for two days ?—A. No, it would vary, get a little better and then worse again.

Q. I want to know how long ?—A. I had it on several occasions.

Q. On 2nd October ?—A. For a couple of days.

Q. Constantly ?—A. Yes.

30 Q. Had you ever had that experience before ?—A. When I had had the spasms, yes.

Q. That your jaws were in this position you call locked for two days ?—A. No, not two days, while I was in the spasm.

Q. According to you, this is the worst spasm that you had ever had ?—A. Yes.

Q. During the 30th September, 1st and 2nd October ?—A. Yes.

Q. The 2nd October was your birthday ?—A. Yes.

Q. When your husband came home, according to your account he sat you up in bed ?—A. Yes.

40 Q. And he got a teaspoon full of water ; is that right ?—A. I suppose it is right, I was not watching him.

Q. Do you remember he had a spoon, with water ?—A. I do not remember my husband had the spoon ; my husband told me what he did.

Q. Were you conscious at the time ?—A. I was semi-conscious.

Q. You have no actual recollection of your husband forcing a spoonful of water into your mouth ?—A. I have some recollection of it.

Q. Very vague ?—A. Yes.

Q. At the time, you were coughing ?—A. Yes.

50 Q. Have you any distinct recollection of the coughing ?—A. I knew that I was coughing, more or less.

Q. You have got a recollection more or less ; what does that mean ?—

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Q. At all events, you have no distinct recollection of the coughing ?
—A. Yes, I am aware that I was coughing.

Q. Have you a distinct recollection of something bursting through your flesh ?—A. I have a distinct recollection of something bursting into my mouth, and I could not open my mouth to spit it out.

Q. So you swallowed it ?—A. I could not say it was there, so I swallowed it.

Q. How do you mean, you could not say it was there ?—A. I could not open my mouth to speak.

Q. Have you a distinct recollection during this unconscious turn that 10 you had of this thing in your mouth ?—A. I am aware of the fact.

Q. You were aware of the fact at the time ?—A. Yes, I was aware of something, I did not know what at the time.

Q. Something that seemed as large and bulky as this sample we have got here with the bits of wire ?—A. It was not as bulky as that. It was soft. It was soft rubber, it was not hard.

Q. You were unable to do anything because your mouth was full of pus ?—A. I suppose it was pus, and the tube.

Q. You did say on the previous occasion you were unable to spit it out because your mouth was full of pus and matter ?—A. It is the way 20 you put the question, I suppose.

Q. “ Q. Could you feel it in your mouth ?—A. I could feel there was something in my mouth, but I could not open my mouth to spit it out to see what it was had come into my mouth. There was pus and all ” ?
—A. If I could have opened my mouth I would have certainly spat out the pus.

Q. There was pus in your mouth at the time ?—A. Yes.

Q. You were still in this spasm, of course, at the time ?—A. Yes.

Q. Did you tell your husband about your experience, afterwards ?—
A. Not immediately. 30

Q. When ?—A. Some time during the day ; I could not speak for some time.

Q. About how long after ?—A. When I got my voice, I suppose ; I do not know what time.

Q. That night, or next morning ?—A. Some time that night ; it may have been in the morning hours.

Q. What did you tell your husband ?—A. I told him that something burst into my mouth. He did not know what it was and neither did I.

Q. Is that all you said to him ?—A. As far as I can remember.

Q. I want you to tell me as near as you can your recollection of what 40 you told your husband about this occurrence ?—A. I spoke very few words. I could not speak.

Q. When you could speak, what did you tell him ?—A. I was not able to speak very well until some time after.

Q. How many days ?—A. I do not remember the number of days.

Q. At some time or other you were able to talk ?—A. I could talk, but I could not say many words at a time.

Q. I suppose you did tell your husband something about this affair, bit by bit ?—A. I told him something had burst into my mouth, and I did not know what it was. He thought it may have been an abscess, or 50 anything ; he did not know what it was.

Q. You told your husband this on 2nd October, later in the evening some time?—A. It may have been round about the 3rd—after midnight.

Q. That night your husband and you occupied the same bed?—A. I do not remember my husband being in bed that night.

Q. The next day your husband thought you had indigestion?—A. I complained of a sticking in my stomach.

Q. Your husband thought you had indigestion. Did not you tell your husband to try and get some sort of remedy for your indigestion?—

10 A. For the state of my stomach, yes; but I do not know that I called it indigestion.

Q. Your husband gave you, or you took, certain aperients?—A. Yes.

Q. According to the evidence given on a previous occasion, on the 3rd you took Kruschen Salts, on the Tuesday?—A. Yes.

Q. The 2nd October was the Monday?—A. Yes.

Q. On the Tuesday you took Kruschen Salts?—A. Yes.

Q. On the Wednesday you took paraffin oil?—A. Yes, perhaps.

Q. On the 5th you took castor oil?—A. I remember taking the castor oil.

20 Q. During those couple of days you took three different things?—
A. Yes.

Q. During that same period you could feel something moving about in your stomach?—A. On occasions.

Q. You felt this thing you have described, in your stomach?—A. I felt something pricking my stomach.

Q. As you described before, you could feel the wire scratching your stomach?—A. I did not know at the time it was wire.

Q. But you know now?—A. Yes.

Q. It was scratching, according to you, the inside of your stomach?—A. Yes.

30 Q. Sticking into your stomach. You could feel the wire sticking into your stomach?—A. As my stomach moved I could feel this pricking in my stomach.

Q. You still did not call Dr. O'Hanlon?—A. No.

Q. Did your husband suggest calling Dr. O'Hanlon?—A. I do not remember.

Q. Did you tell your husband: "No, wait a while"?—A. I do not remember.

Q. Will you deny that you told your husband "Wait awhile"?—
40 A. I do not remember telling him; I may have done.

Q. You knew, of course, after 2nd October, you had in fact swallowed something?—A. Yes.

Q. And you were anticipating that it would appear?—A. I was not sure.

Q. You thought it might?—A. I thought it might dissolve.

Q. You thought it might appear or dissolve?—A. I did not know.

Q. Is not that one of the reasons you want to suggest why you took those aperients?—A. Yes, but I did not know whether the object would dissolve. I did not expect anything like what I saw.

50 Q. From your point of view, one of the objects of the aperients was to try and find out what it was you had swallowed?—A. To get rid of the trouble, to get rid of my bother.

Q. You did anticipate the possibility of something appearing?—
A. Well, yes.

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Q. And that is the reason, according to you, why you were taking those aperients?—A. Yes, to rid myself of the trouble.

Q. On the 5th October your husband brought you breakfast in?—A. Yes.

Q. You say, or have said, that you did not eat it?—A. I had no breakfast.

Q. You have said that you pushed the breakfast behind the door?—A. There was a table behind the door.

Q. And you pushed the table, with the breakfast on it, behind the door?—A. Yes. 10

Q. Did you get out of bed to do that?—A. No, the table was only a small bedside table, and it would push about; if you gave it a push across the polished floor, it would slide some distance.

Q. You were in bed very ill that morning?—A. Yes.

Q. You pushed this table, from where you were lying in bed?—A. Yes.

Q. And it went behind the door?—A. Yes.

Q. Which door—the one that goes to the bathroom, or the side verandah?—A. The one that goes on to the side verandah. I did not intend “Right behind the door” but “Towards behind the door.” 20

Q. On 5th October you were still in the back bedroom?—A. Yes, on the 5th I would be in the back bedroom.

Q. Had these purgatives you had been taking any effect on you prior to the 5th?—A. I do not remember; they may have done.

Q. Were you in the habit of using a chamber in your bedroom?—A. Yes.

Q. In a similar way as you did on this particular morning?—A. Yes.

Q. You had been doing that for some considerable time?—A. Yes.

Q. You had other toilet requisites available in your bedroom for that purpose?—A. Yes. 30

Q. Whereabouts in the room was the commode you were using?—A. From the bed over towards the corner.

Q. Which corner?—A. The corner from the bed.

Q. Towards the side verandah?—A. Yes.

Q. Was this commode an ordinary chamber, or some other kind of furniture?—A. A piece of furniture.

Q. You say you had occasion to use that about 7 o'clock in the morning?—A. Somewhere round about there; I was not watching the time.

Q. And you went back to bed?—A. Yes. 40

Q. Did you look into the commode to see whether the object was there you were expecting to see?—A. No, I was very, very ill.

Q. You stayed in bed for an hour or so?—A. Yes.

Q. You then got up, picked up the chamber, and walked out towards the side verandah?—A. Yes.

Q. How far had you gone before you noticed this object you have described?—A. I could not say; my mind was taken up in keeping myself walking and seeing that I did not fall over.

Q. Did you have to lean against the wall, as you were going along?—A. Yes, I had to hold on to it. 50

Q. You could not walk along without holding on?—A. I could not walk along straight at all.

Q. You had to get support from the door, and then from the wall of the verandah ?—A. Yes.

Q. It was as you were going along on the verandah that you saw this thing ?—A. Yes.

Q. You then put your pan on the verandah floor ?—A. Not then, I did not.

Q. You did put it on the verandah ?—A. Yes, but it was empty.

Q. Was there anything in the pan which prevented you, or obstructed your view of this thing that you say was there ?—A. No.

10 Q. Nothing whatever ?—A. No.

Q. No paper ?—A. No.

Q. There had been no paper used ?—A. No.

Q. Nothing like that at all ?—A. No.

Q. When you saw this thing, you picked it out with your fingers ?—A. Yes.

Q. With your left hand ?—A. Yes.

Q. You put the pan on the verandah ?—A. Yes.

20 Q. Had you got to the corner of the back bedroom, at the outside corner of the back bedroom—do you follow what I mean (plan shown to witness). You came out this door on the side and along this wall, leaned against the wall ?—A. Yes.

Q. Had you got to that corner ?—A. Yes, I had crawled across to that door.

Q. When you put the pan on the verandah were you up to that corner or not ?—A. No, I was out here (indicating).

Q. Opposite the door ? (Witness indicated on plan.)

Q. Somewhere round about there where the cross is ?—A. Outside the door.

30 Q. Why did you put the pan on the floor outside the w.c. ? Why did not you walk in and put it on the inside ?—A. I am sure I could not say.

Q. You were standing outside the lavatory door, with the pan on the floor, and this thing in your hand, and you squeezed it ?—A. Yes.

Q. And green pus came out ?—A. Yes, a kind of greenish-yellow pus.

Q. You never mentioned on the previous occasion anything about yellowish pus, or greenish-yellow ; you said it was green ?—A. I do not remember ; it was greenish-yellow.

Q. Has anybody told you that pus, other than tubercular, is not green ?—A. I never said "green." I said "a yellowish-green," I think.

40 Q. Are you prepared to admit that on the previous hearing you referred only and exclusively to green pus ?—A. No, I do not.

Mr. HARDWICK : She said "a green looking substance," page 17.

Mr. REIMER : You were giving a description of what you saw, and you said : "One end was torn and there was a slight cut in it, in the cut there was a swab with a piece of wire to it, I think it was wire, it was like wire."

"Q. Did you do anything with that ?—A. Yes, I took it out and I squeezed where the swab was and the pus ran down my fingers.

"Q. What colour was it ?—A. It was green.

50 "Q. Did you remove the swab ?—A. No, I did not remove the swab.

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“ Q. You squeezed it, and a green looking substance that you describe as pus ran down on to your fingers ?—A. Yes.

“ Q. Where were you when you did this ?—A. I was near the toilet.”

Did anybody suggest to you since the last hearing that the pus should be yellow ?—A. No.

Q. When you saw this object, you realised that it was what you say you had swallowed. When you saw it did you realise that it was what you had swallowed ?—A. I realised that it must have been what I had swallowed. 10

Q. You realised that it was what you had been looking for ?—A. I thought it was what I had been looking for.

Q. And you thought at that time that it had come, or must have come, from the site of your operation ?—A. Well, yes.

Q. It was while you were standing there that you heard the footsteps ?—A. Yes.

Q. The footsteps were on those concrete steps coming up the back ?—A. Yes.

Q. You bent down and picked the pan up off the floor ?—A. Yes.

Q. And then you went into the lavatory, and after doing the chamber, 20 you came out of the lavatory ?—A. Yes.

Q. Your husband reached the top step on to the verandah, as you stepped out of the lavatory. Do you agree with that ?—A. Yes, the steps did ; I did not see my husband.

Q. The steps reached the wooden part of the verandah, as you walked out ?—A. Round about.

Q. So that the time you took in the lavatory disposing of the contents of the pan, and of this tube you say you saw, was the time it took your husband to go up those steps, whatever the number. That is right, is it not ?—A. I suppose so. 30

Q. As far as you knew on that morning, your husband was on the premises ?—A. Yes.

Q. You did not know just whereabouts on the premises he was ?—A. No.

Q. How long were you standing outside the w.c. examining this object in your hand ?—A. Not very long, only a second or two.

Q. When you realised that this was what you had been looking for, and it had come, probably, from the site of the operation, why did you not call your husband ?—A. I could not call out. I had to wait till people came to me, I could not speak. 40

Q. Why did you not drop it back into the pan ?—A. I had it in my fingers.

Q. Why did you not go inside the lavatory and stay there with it ?—A. I could not stay there.

Q. Not while the person came up the steps ? You had only to take a step of about 2 feet in either direction and you would be out of the vision of anybody coming up those back steps ?—A. It would take me quite a while to make a few steps.

Q. You had stepped into the lavatory before your husband reached the top step on to the verandah ?—A. I do not remember whether I was 50 right into the lavatory or not.

Q. You were right out again when he reached the top step?—A. I could not tell you whether I was right out, or right in.

Q. You have told us on a previous occasion that you got worried, or flurried, because you thought it was a tradesman?—A. Yes, I did.

Q. You did not want to be seen by a tradesman in the position you were with the pan?—A. No.

Q. And that is why you hurried into the lavatory?—A. Yes.

10 Q. I put it to you you could have either hurried into the lavatory and stayed there without being seen, or could have gone a few steps back from the angle of vision?—A. It was difficult for me to turn around—it took me longer to turn around than to go straight ahead.

Q. Had you stayed inside the lavatory, whoever it was would not have been able to see you, would he?—A. I do not know.

Q. He could not see you, coming up the steps, could he? If you were in the lavatory he could not possibly see into the lavatory, coming up the steps?—A. No, you cannot see.

Q. And if it were a tradesman, his natural course would be to go to the kitchen door, which is opposite the steps?—A. No, he would sometimes come up and put the milk on the table on the verandah.

20 Q. And the table was round near the front door, near the hall?—A. No, against the wall on the back verandah.

Q. Even from there you cannot look into the lavatory?—A. You never know what people will do.

Q. As a matter of fact, you thought the steps were your husband's?—A. No, I did not think so. I did not notice whose steps they were.

Q. You are quite aware of your husband's footsteps, you would recognise them, would you not?—A. Not at those times; I was not taking particular notice of the steps.

30 Q. Do you mean to say you were so ill you could not recognise something that you were perfectly familiar with?—A. I was so ill that I was not interested in footsteps.

Q. Was it not the footsteps that made you go into the lavatory?—A. I knew someone was coming up the steps, I heard the sound.

Q. As a matter of fact, you thought it was your husband all the time, did you not?—A. No, I did not.

40 Q. You were asked this: "Q. So that as soon as you came back from the lavatory you saw your husband?—A. By the time I got out of the lavatory he stepped on to the verandah." "Q. Before then you did not know who it was?—A. I thought it was he. Q. You could not see him as he went into the kitchen?—A. No, I was still in the toilet. Q. He could not see you?—A. No."—you did think this was your husband coming up?—A. When I heard the footsteps go into the kitchen and walk through the house I knew it was my husband, but not before that.

Q. Did you hurry back, run back?—A. No, I could not run back.

Q. When you got inside the lavatory, your main concern was not to be seen by somebody who might be a tradesman?—A. Yes.

Q. Why did you not sit down on the pedestal and stay there?—A. I do not know; I did not think of it.

Q. You emptied the pan with your right hand?—A. Yes.

50 Q. You pulled the chain with your left hand?—A. Yes.

Q. And that was all in one action?—A. No, I emptied the pan, then I reached across to pull the chain.

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- In the Supreme Court of New South Wales.*
- Q. And then you immediately came out?—A. Not immediately ; it would take me some time to turn around.
- Q. How long do you suggest?—A. Some seconds.
- Q. At the time you pulled the chain you were leaning against the door, according to your former evidence, of the lavatory?—A. Yes.
- Plaintiff's Evidence in previous Trials.*
- Q. Your back against the door of the lavatory, which, of course, was open?—A. Yes.
- Q. And that door opens back towards the back steps?—A. Yes.
- Q. You had to lean against that with your back for support?—A. I was leaning against it with my side, leaning sideways. 10
- No. 3. Second Trial.*
- Q. Which side?—A. The left side.
- Q. You have already told us you pulled the chain with the left hand?—A. Yes, I was leaning with my body against the door and reached across and pulled the chain.
- Stella Eileen Hocking, 14th August 1942, Cross-examination, continued.*
- Q. And the chain was on the other side of the lavatory?—A. Yes, but it is a very small lavatory.
- Q. Then you got back to bed?—A. Yes.
- Q. Did you wash your hands?—A. Yes.
- Q. Where?—A. I wiped them with a face cloth, with a washer.
- Q. Where did you get the water from?—A. There was water there. 20
- The cloth was always damp, and water was in the room.
- Q. You did not go into the bathroom, which was next door?—A. No, I did not.
- Q. You did not have a jug of water, or a hand basin in your bedroom?—A. I had the basin in the bedroom.
- Q. Have you a hand basin in the bathroom, with running water?—A. Yes.
- Q. As well as that, you had a basin in the bedroom?—A. I had a dish of water in the bedroom, but I was mostly as unable to get as far as the bathroom ; if I got out of the bedroom to the lavatory that was a big effort for me. 30
- Q. You saw your husband then about half-an-hour, or thereabouts, afterwards?—A. I saw him some time after.
- Q. On the last occasion, you said about half-an-hour or thereabouts?—A. It may have been.
- Q. Say an hour, or half-an-hour, when your husband came in, you showed him the sketch?—A. No, I did not.
- Q. You did draw the sketch that day?—A. Some time that evening
- Q. You told Mr. Hardwick in this court you drew only one sketch? (Objected to.) 40
- Q. " Q. Had you only drawn one sketch?—A. Yes."—A. Yes.
- Q. As a matter of fact, that is not correct, is it ; you drew two or three sketches that day?—A. No, I did not. I drew the one sketch which was only a few lines—you can call that one if you wish. When I felt a little better, I made the sketch a little better, I added a few more pencil lines, until you have what you have in court.
- Q. All on the one piece of paper?—A. All on the one piece of paper, but you may call it a couple of sketches, or more than that, if you wish.
- Q. You have told lots of people you drew that sketch to show your 50 daughter?—A. To show my daughter and my husband.
- Q. Is that correct?—A. I drew another sketch to show my daughter.

Q. Did you draw that sketch to show your daughter?—A. I drew that sketch really to show my husband. I suppose my daughter would see it.

Q. Haven't you put forward the reason for drawing that sketch was because you were afraid you were going to die, and you wanted your daughter to see a picture, your sketch, of what had caused your death?—A. What had caused me so much trouble and my daughter so much worry.

Q. At that time did you think you were going to die?—A. Yes, certainly I did.

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10 Q. You wanted to have a record of the object which had caused your death, as you believed?—A. Yes, I wanted to leave some record of it.

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Q. And that, according to you, was the object of drawing the sketch?—A. Yes.

Q. Nothing whatever to do with the bringing of this action, or anything like that?—A. No, nothing whatever. I did not know what it was I had drawn until Dr. O'Hanlon came and told me it was a piece of drain tube. That is the first I knew of it being a drain tube.

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20 Q. Are you prepared to deny that, on the same day, you asked your husband to get some indigestion powders from the chemist?—A. I do not remember, but I may have done.

Q. Are you prepared to dispute that on that day you obtained from Mr. Davis two prescriptions?—A. No, I do not remember the prescriptions.

Q. They were merely sedatives for your stomach?—A. I do not remember.

Q. A sort of check for diarrhoea?—A. No, I did not have diarrhoea.

Q. At all events, they were something in the nature of a stomach sedative. Did you know that?—A. I do not remember anything about them.

30 Q. On the 5th you still had this pus and swelling you have told us about. You could not turn your head sideways?—A. No.

Q. You knew then that Dr. Bell had been guilty of the very grossest carelessness? On the 5th you knew that Dr. Bell had been guilty of the very grossest carelessness against you?—A. No, I did not think of it in that way. I had not thought about it then, until Dr. O'Hanlon told me it was a piece of drain tube.

40 Q. "Q. Then this occurrence happened that you have told us about and you then had the idea that Dr. Bell had been guilty of what you regard as a piece of the grossest carelessness, in leaving this piece of tube behind after pulling something out?—A. Yes."—A. I came to that conclusion after Dr. O'Hanlon had been to see me.

Q. You knew of course, at that time, that this rubber tube you had seen had been left in your neck by Dr. Bell—must have been, according to you?—A. Must have been, as far as I know.

Q. You knew then that Dr. Bell, in your opinion, would be responsible for it?—A. I was really so ill at the time that I did not think immediately.

Q. Within the next half-hour or so?—A. It was days.

Q. Still you did not send for Dr. O'Hanlon, did you?—A. I did not know it was a drain tube.

50 Q. Forget the drain for the moment. You did not in fact call in Dr. O'Hanlon?—A. Dr. O'Hanlon was called.

Q. Not on the 5th. On the 5th you did not call Dr. O'Hanlon, did you?—A. No.

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Q. Did you consider calling him?—A. I suppose we may have, but I was not interested in doctors.

Q. You realised then of course that you were very seriously ill, according to your story?—A. Yes, I was.

Q. This was an extraordinary occurrence that happened?—A. Yes.

Q. That you should pass a piece of rubber tube with two wires, which you believe came from the site of your operation?—A. Yes.

Q. You had this gross swelling and pus oozing into your mouth?—A. Yes.

Q. You did not think it might be a good idea to call in the doctor? 10
—A. We had called in the doctor many times when I had been seriously ill.

Q. You had never had a rubber tube with wires coming through many times, had you?—A. No.

Mr. REIMER: You or your husband did call Dr. O'Hanlon in on the night of the 6th?—A. Yes.

Q. You were in bed; what bed?—A. The front room.

Q. Why did you go into the front bedroom?—A. Because it was the tidiest bedroom in the house.

Q. So in your ill condition you transferred from the back bedroom to the front bedroom to receive Dr. O'Hanlon?—A. My husband helped me 20 into the tidiest room.

Q. Were you carried in or what?—A. I suppose I was carried.

Q. Literally carried?—A. Well, yes, I would say round about.

Q. He lifted you off the floor in his arms?—A. Almost off the floor.

Q. You were present when your husband told Dr. O'Hanlon certain things about your condition?—A. No.

Q. Did you hear it?—A. Yes, I could hear.

Q. You could hear your husband talking to Dr. O'Hanlon just outside the door?—A. I could hear voices, yes.

Q. Will you agree that your husband told Dr. O'Hanlon firstly that 30 you had as severe a spasm on the Monday as you had ever had?—A. Yes.

Q. And secondly that you had a coughing fit?—A. Yes.

Q. And thirdly that on the Wednesday you had a sore throat and pain and swelling? Is that right?—A. I do not know whether my husband told Dr. O'Hanlon or not, but that is right.

Q. Next we are told that your husband thought you had indigestion and purgatives were given. Is that what your husband told Dr. O'Hanlon? —A. I could not say whether he said I had indigestion. I did not hear it.

Q. But you heard your husband tell Dr. O'Hanlon that purgatives were given?—A. No, I could not say that I heard my husband say that. 40

Q. And that on the morning on the 5th you had had a bowel action and seen a piece of rubber giving the description of 2 inches long, cut cleanly one end and cut with serrated edges the other end, a piece of marine sponge and two bits of wire. Do you remember your husband telling Dr. O'Hanlon that?—A. No, I could not say if it was word for word what my husband said.

Q. But it was something to that effect?—A. Yes.

Q. And lastly your husband told Dr. O'Hanlon that you had emptied the contents of the pan and the tube into the w.c.?—A. No.

Q. Do you deny that?—A. I certainly do.

Q. You yourself added to additional bits of information to what your husband told Dr. O'Hanlon, firstly that you felt or thought you felt 50

something in your mouth when you had the spasm on the 2nd ; do you remember that ?—A. Yes.

Q. Those are practically your own words ?—A. Yes.

Q. The second thing I put to you that you added was that you heard footsteps coming up from downstairs while you were studying it, and thinking it was a tradesman you hurriedly emptied the pan and the thing was lost ?—A. No.

Q. Do you deny that you told Dr. O'Hanlon that ?—A. I do.

10 Q. Did you tell one word to Dr. O'Hanlon that night about the pus in your mouth ?—A. I told him I had to clean my tongue with a tooth-brush.

Q. Because of the pus ?—A. Yes, and he could not see into my mouth ; he tried to look.

Q. I will come to that in a moment. Do you say you told Dr. O'Hanlon you had pus in your mouth ?—A. Well, I said my tongue was terribly coated—something to that effect.

Q. But there is a great deal of difference between having a coated tongue and a mouth full of pus. What did you say to Dr. O'Hanlon ?—A. I said " Pus."

20 Q. What else did you tell him on this occasion ?—A. The first thing I asked him was, did he know ? He stood back and looked at me for a while, and I said did you ? He said no, he did not know, and he thought I had better go up to the hospital to be X-rayed to see that there were no drains left. He wanted me to go that night and I would not go so he came himself next day and took me to the hospital in his car.

Q. That is what you say took place that night. Did you say one word to Dr. O'Hanlon about pus being in your mouth for three months ?—A. I do not remember.

30 Q. Did you say one word about this gross swelling you told us about ?—A. The doctor could see that. I don't remember whether I did or not, but the doctor has eyes.

Q. Did you say anything about your losing consciousness ?—A. Yes, I suppose he was told that many times.

Q. On the 2nd ?—A. Yes.

Q. And that your jaw was locked ; you could not open your mouth ?—A. My husband did most of the talking.

Q. Was Dr. O'Hanlon told that in your presence that night or not ?—A. He was told something like that, yes.

40 Q. Do you swear that—he was told about it ?—A. As far as I know, he was told quite a lot about it. He asked a lot of questions.

Q. Did either you or your husband say one word to Dr. O'Hanlon about feeling this thing in your stomach, scratching your stomach and pricking into your stomach ?—A. I do not remember. I suppose it was mentioned.

Q. Did you say one word about the pus you had seen in the object being green ?—A. I suppose I did.

Q. Did you ?—A. Yes, I did.

50 Q. Did you tell Dr. O'Hanlon that the object of taking oil and the other purgatives was to try and find out what you had swallowed on the 2nd ?—A. I did not.

Q. Did your husband tell him ?—A. He may have done.

Q. As far as you know did he do so or not ?—A. I suppose he would.

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Q. But you were present?—A. No, I was not present. I was in the other room and they were talking in the bathroom. The doctor was washing his hands in the bathroom.

Q. Was this when he was going away?—A. No, when he first came.

Q. Then he came into your bedroom and the whole thing was discussed in your bedroom?—A. Not the whole thing.

Q. Was there a discussion in your bedroom?—A. Yes.

Q. Practically the whole of the story you told us to-day was not mentioned to Dr. O'Hanlon that night at all?—A. Yes, it was.

Q. Did you say one thing to him about the object of the oil and so on being to find out what you swallowed?—A. I did not. 10

Q. You knew, of course, by this time that the thing had actually broken through the wall of your throat?—A. Yes.

Q. You can remember feeling it breaking through?—A. Yes.

Q. And, according to you, it had broken through the tonsil?—A. I did not know it had broken through the tonsil.

Q. Well, near the tonsil, near the back of the tongue?—A. Right through the side of my throat is the nearest I could say.

Q. Did you tell Dr. O'Hanlon that you had felt the thing break through your flesh?—A. I am sure my husband did. Whether I did or not, I am not sure. 20

Q. Are you prepared to swear your husband told him that?—A. Yes.

Q. You see, I have already asked you what you told your husband and you have not said a word about that?—A. I could not speak very well. I might say one or two words on those occasions, but that would be all for hours. I would not speak again for quite a while.

Q. You are trying to put the picture forward that you were a terribly sick woman that night?—A. I was.

Q. It would be quite incorrect to say that you had no swelling, no pus?—A. It would be incorrect to say that. 30

Q. It would be incorrect to say that Dr. O'Hanlon had no difficulty whatever in examining you?—A. Yes.

Q. And it would be incorrect if he said there was nothing there to be seen of any abnormality?—A. He could not see anything.

Q. Did he try and examine you that night?—A. He did have a bit of a look and I could not open my mouth.

Q. Was your mouth still in that locked position it had been on the 2nd?—A. No, but the swelling prevented me from opening my mouth.

Q. I suppose it still prevented you from turning your head to the left?—A. I could move my head slightly but I never turned it right round to the left. 40

Q. What was the maximum amount you could turn it?—A. I have no idea of the maximum at that time.

Q. You could not turn your head right round on one side?—A. No, I am positive about that, because it was months after I left St. Luke's Hospital before I could turn my head round.

Q. Do you remember your husband asking Dr. O'Hanlon whether this thing you described could have been a piece of tubing used during the administration of anæsthetic?—A. Well, I am not sure, but I think I did hear him ask something about an anæsthetic. 50

Q. And suggesting it might be connected with the anæsthetic?—A. Yes.

Q. Did you then tell Dr. O'Hanlon that it was a nurse who had removed that tube in the hospital?—A. No, I did not.

Q. Will you swear that?—A. Yes, I will swear it.

Q. Who suggested the X-ray being taken—your husband?—
A. Dr. O'Hanlon.

Q. And the next morning you went up to the Quirindi Hospital and had an X-ray taken of your neck?—A. Yes.

Q. Did Dr. O'Hanlon then make an examination of you again?—
A. I do not remember.

10 Q. He examined your throat very carefully in the hospital did he not?—A. No, I do not remember him examining my throat in the hospital—No, he did not examine it.

Q. The position is this, you say your husband told Dr. O'Hanlon on the night of the 6th that you had this tube you have described ulcerated through the back of your neck, you felt it ulcerate through?—A. Yes.

Q. That you were in a gross condition, he could not even examine your mouth because you could not open your mouth?—A. Yes.

Q. You came on to the hospital and you say he could not examine you the night before and he did not try to examine you the next day?—

20 A. I do not remember him trying to examine my mouth in the hospital.

Q. And he never called at your house between then and the time you went to St. Luke's Hospital on 26th October?—A. I was very very ill.

Q. You did not call him during that period except when on one occasion your husband rang him up?—A. He was called and the other doctor came in his place.

Q. That would be Dr. Cooper?—A. Yes.

Q. And that would be just a day or two before you went down to St. Luke's Hospital?—A. I think it was the day before.

30 Q. Do you remember that the reason that Dr. O'Hanlon did not come was because that day his own little girl died?—A. No, she did not die on that day but she was very ill.

Q. And he sent Dr. Cooper in his stead?—A. Yes.

Q. Between 7th and 26th October you had this swelling the whole time?—A. Yes.

Q. You had pus in your mouth and you have described you had a wall of pus at the bottom of your throat. How did you know that?—A. As far as could open my mouth I could see it.

Q. At the bottom of your mouth?—A. All the inside of my mouth.

40 Q. All coated with pus?—A. Covered with a kind of coating. The inside of my mouth was all coated with pus.

Q. Everywhere?—A. Yes. In the mornings I used to get the tooth brush and scrape my tongue with it to remove the pus.

Q. Did you scrape the tonsils?—A. No, they were far too sore.

Q. And of course you were quite unable to do anything about the place—you were really prostrate all this time?—A. Yes.

Q. You had Mrs. Fisher come in and she arrived on the 17th October, the day you had the X-ray taken?—A. Yes.

50 Q. And she commenced to assist in the house work, and arrived about 7.30 or 8 o'clock, and stayed, I suppose, until about lunch time?—A. No, till after 6 o'clock.

Q. And of course at that time you could not swallow?—A. No.

Q. You had in fact been unable to swallow for some months?—A. Yes.

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Q. And you had nothing but arrowroot and bovril for some three or four months prior to 2nd October?—A. Yes.

Q. You had nothing but bovril and very thin arrowroot from 7th to 26th October and prior to that, of course, you had been on a very thin diet for a long time right back to the time you were in Quirindi Hospital in 1938?—A. Yes.

Q. While this picture was going on you wrote that letter (Exhibit C) to Dr. Bell on 11th October?—A. Yes.

Q. Of course you were worse than you had ever been before?—A. No, I was feeling a little better. I do not mind telling you that it took me the 10 whole of that night and the next day to write that letter.

Q. And this is what you wrote to him: "Thanks for your letter received some time ago." Stopping there, last time you thought that that was 12 months ago?—A. I do not know when it was.

Q. "You have probably heard from Dr. O'Hanlon giving you full details . . . do not worry about the tube"?—A. I was quite certain I was going to die, so why not let Dr. Bell know all about it when he was cruel as to leave me suffering for so long.

Q. Why did not you mention the swelling in your letter?—

A. Dr. Hanlon told me he was telling him. 20

Q. About the pus and about the swelling?—A. He said he was telling him everything.

Q. Does it not strike you as an extraordinary thing in view of the story you have told us that you should write that letter and not say one word about the pus and about the swelling, about your fear that you were going to die, or anything?—A. I did not tell everybody I thought I was going to die.

Q. I thought you said you were writing this letter to Dr. Bell because you wanted him to be a happy man as you thought you were going to die?—A. No, I did not want him to be happy at all? I thought it might 30 hurt him a little bit if he thought I was dying.

Q. Why did you say: "I think it was then it burst in my throat"?—A. I cannot say why I said that now.

Q. Were you deliberately trying to write an untruthful letter?—A. No.

Q. Does that give a fair and accurate representation of your ideas at that time?—A. Round about, something similar.

Q. What did you think at the time you wrote this letter?—A. I was really very ill and I do not remember just what I thought, but I suppose that that is what I was thinking. 40

Q. You told us it took you a day and a half to write the letter. I suppose you admit that on the previous hearing you said you have no recollection of writing the letter at all because you were so ill?—A. That is the last letter I wrote to Dr. Bell.

Q. That is not an answer to my question. Do you admit on the last hearing saying you had no recollection of writing the letter at all?—A. I do not remember that.

Q. This is the evidence you gave on the previous occasion: "At any rate on 11th October when you did write . . . if it is there, I wrote it." What was your object in writing that letter to Dr. Bell?—A. I thought 50 I had just explained that.

Q. Do you want to add anything to it?—A. No.

Q. You got a reply from Dr. Bell suggesting you might come to Sydney for medical investigation?—A. Yes.

Q. And arrangements were made as a result of Dr. Bell's letter on your behalf for you to go back to St. Luke's Hospital?—A. Yes.

Q. As Dr. Bell's patient?—A. I was not interested in whose patient I went as.

Q. But in fact you went back as Dr. Bell's patient?—A. I suppose I did.

10 Q. And Dr. Bell attended to you at St. Luke's Hospital practically every day while you were there from 26th October to 3rd November?—A. Yes.

Q. And you say that your condition was such that you had to be brought in the ambulance—at the other end of course at Quirindi you went in a taxi?—A. Yes, there was no ambulance there and I was carried into the taxi and carried out.

Q. According to you, you were in a very serious condition when you arrived at St. Luke's Hospital in 1939?—A. Yes.

Q. You had this wall of pus?—A. Yes.

20 Q. Would it be correct to say that on the day you arrived you were fairly comfortable?—A. No, far from comfortable.

Q. Did Dr. Bell make a very careful examination of your neck and throat on the day that you arrived?—A. No.

Q. Did he make any examination?—A. He just had a peep, that is all.

Q. Do you mean by that he could not do any more than peep or that he just did not bother?—A. I could not say.

Q. Did you still have a swelling?—A. I could not open my mouth very well but the swelling was going down.

Q. Did you still have this tight jaw?—A. Yes.

30 Q. Your jaw could wiggle about by then?—A. I could use my jaw then a little.

Q. And Dr. Bell's failure to examine was not due to inability to open your mouth on your part?—A. No.

Q. Did he not try to examine you carefully at all, use any kind of an instrument?—A. No, he did not use an instrument. He said he was a surgeon and I expected to see a throat specialist.

Q. Is it correct that you were not complaining on that day?—A. Well, it was not my habit to complain.

Q. Did you have anything to complain about?—A. Yes, I certainly did.

40 Q. Did you tell any of the nursing staff what your condition was or what you had wrong with you?—A. They seemed to know what was wrong.

Q. Do you remember who they were?—A. I do not know the nurses' names.

Q. Would you remember them if you saw them?—A. I might, I do not know.

Q. Do you remember the names at all?—A. No.

Q. Did you or did you not mention your condition to any of the nurses?—A. They knew I had a very bad throat.

50 Q. But you did not know what they knew?—A. Well, the nurses used to paint my throat.

Q. Of course that was after Dr. Marsh had been to see you?—A. Before that I was given treatment.

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Q. I will come to that in a moment. Did you make any mention to the nurses or any of them of any of the symptoms and conditions you have told us about in court?—A. Yes. When I arrived at St. Luke's I ordered water, plenty of water. I had been in the habit of drinking plenty of water and the water was taken from me. I was not given water for quite a while and then eventually the water bottle was returned and it had some dreadfully hot stuff in it so that I could not drink it, until I was forced to by thirst.

Q. And that you thought was chloride?—A. Yes.

Q. Have you ever tasted chloride?—A. No. 10

Q. Why did you think it was that?—A. I do not know, perhaps because it was cutting, it had a cutting sensation and burning.

Q. It might have been something else besides chloride, such as prussic acid, which is burning?—A. I did not know what it was.

Q. Did you think you were being poisoned?—A. No.

Q. You are not suggesting there was something in the nature of tampering with your food or water in St. Luke's Hospital?—A. No, but I considered it was very cruel treatment.

Q. Did you blame the authorities at St. Luke's Hospital for that?—
A. I did not blame anybody. 20

Q. Who in your opinion was responsible for it?—A. I do not know. I ordered the water and they removed it. It was late some time that day they removed the water and I was not given water until the next day.

Q. You told us that Dr. Hansman came and saw you in the hospital?—A. Dr. Bell suggested Dr. Hansman, I did not. I did not know there was such a man.

Q. Do you not know it was Dr. Tebbutt who came and saw you?—
A. I thought it was him.

Q. Where did you get the idea of Dr. Hansman?—A. It is on the receipt. 30

Q. So you assumed it was Dr. Hansman?—A. Yes.

Q. You have told us that Dr. Ritchie did not examine you at all?—
A. No.

Q. Do you remember going out on the verandah at St. Luke's into the sunlight with Dr. Ritchie?—A. No, I was never out of the bedroom at all with Dr. Ritchie, never at any time.

Q. Of course you had a private room and outside the private room led on to the verandah?—A. Yes.

Q. And it would be incorrect to suggest that you got out of bed and walked on to the verandah with Dr. Ritchie to get the sunlight on your throat?—A. I did not. 40

Q. And according to you, Dr. Ritchie at any time gave you any attention at St. Luke's Hospital?—A. He never examined my throat.

Q. Did he give you any professional attention at all?—A. No.

Q. You paid him an amount of 3 guineas for his attendance on you in St. Luke's in October 1939 or your husband paid it for you?—A. I have no idea whether there was a bill sent or not. I do not know.

Q. Will you not admit you gave particulars of that item?—A. No, that was the one before. That was when I returned from St. Luke's the first time. 50

Q. You say that when Dr. Marsh examined you, you still had pus in your mouth?—A. No, I said I did not.

Q. The pus had all gone then ?—A. Yes.

Q. According to your evidence at the last hearing it is a bit different ?—A. I do not remember what I said there, but I do not think I could possibly say I had pus in my mouth.

Q. You said not one word at the last hearing about anything being put in the water ?—A. Counsel did not advise me to say it, but they knew about it.

Q. Do you only say what you are advised to say ?—A. No, I say more or less what I like.

10 Q. Did you say one word at the last hearing about Dr. Bell telling you that the wall of pus had gone away ?—A. No, I do not think I did.

Q. You did not say one word about the wall of pus being there at all, on the last hearing ?—A. I think I did.

Q. You did mention you still had pus coming into your mouth, but you never used the expression or suggested that it was a wall of pus?—A. I think I did.

Q. You said on the last occasion you still had pus in your mouth when Dr. Marsh examined you ?—A. No.

20 Q. You know Dr. Seward Marsh was a throat specialist ?—A. Dr. Bell told me.

Q. And you know it is correct ?—A. I could not say whether it is correct or not.

Q. You were asked this question : “ Did you understand he was a throat specialist when you saw him . . . I could taste it ” ?—A. I still answer in the same way. I did not know where it was coming from. It was leaking through.

30 Q. You still answer in the same way that there was no pus when Dr. Marsh examined you ?—A. I had had a gargle just before Dr. Marsh came so that there would be no pus in my mouth when Dr. Marsh examined me. It would be clear of pus when Dr. Marsh arrived, and it might have been leaking through so that I could taste it like a bad tooth, and after he left I had a gargle and had my throat painted.

Q. And there was not a single word that you mentioned to Dr. Marsh ?—A. No, I did not say anything to Dr. Marsh. He got straight to business examining me.

Q. What you are suggesting now is that Dr. Bell or somebody on his behalf duly called in Dr. Marsh after having seen that your throat was duly cleaned ?—A. I thought it very strange.

40 Q. But is that what you are suggesting ?—A. Yes, if you like.

Q. So the way you put your evidence-in-chief was correct, that Dr. Bell examined your throat, the wall of pus had come off, so he called Dr. Marsh ?—A. Yes, he told me then that Dr. Marsh was a throat specialist and then Dr. Marsh came along. I do not know whether Dr. Bell rang Dr. Marsh or whether my husband was told to go and ring him.

Q. This question of the deliberate manœuvre on the part of Dr. Bell was never mentioned by you in your evidence at the last hearing ; it is entirely new ?—A.—.

Mr. HARDWICK : She couldn't say it in-chief ; she was not cross-examined about it.

50 His HONOR : Is this the first time you may have mentioned it ?—A. Yes, this is the first time.

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Mr. REIMER: Did you say one word about it to Dr. Marsh?—
A. I did not have an opportunity of speaking to Dr. Marsh. He came straight round to my bed and told me to open my mouth and I opened my mouth and he used the instruments. He was going away and leaving his instruments on the chair, he got out of the room so quickly.

Q. Are you suggesting anything wrong against Dr. Marsh?—
A. Certainly not.

Q. You are not suggesting he did not give you a proper and careful examination?—A. No, as far as I could see, but Dr. Marsh looked very worried and said nothing.

Q. But the only thing he said to you was that there was a slight infection in the one tonsil?—A. He said that—something like that.

Q. When Dr. Marsh said that to you, that was the first occasion upon which you knew or thought that this tube had ruptured through your tonsils?—A. Yes.

Q. It was only after Dr. Marsh had said those few words that you thought the tube had come through your tonsils?—A. Yes.

Q. And the only thing he said to you was you had a slight infection in your left tonsil?—A. Yes.

Q. When did you first conceive the idea of claiming compensation or damages from Dr. Bell?—A. Some time after Dr. O'Hanlon had told me it was the draining tube.

Q. Before or after you were in St. Luke's Hospital under Dr. Bell's care?—A. Before.

Q. So that some time between 7th and 26th October you had a sort of an idea of bringing an action against Dr. Bell?—A. I was far too ill. I had thought of it, but I had not quite done anything about it.

Q. You say you thought about bringing an action or making a claim for compensation against Dr. Bell in October 1939?—A. I had not thought seriously about it.

Q. Had you thought about it at all?—A. Yes, it had been mentioned.

Q. So that when you saw Dr. Bell at St. Luke's in 1939, here was the man against whom you were considering the possibility of claiming damages?—A. Yes.

Q. Did you say one word to Dr. Bell about the details of this tube incident?—A. I have explained before that Dr. O'Hanlon had explained everything in detail to Dr. Bell and he had told him so. Yes, we had spoken about it.

Q. What did you say?—A. I could not say what I said.

Q. Can you not give me some idea what you said to Dr. Bell? You see, it is a very serious matter?—A. No, I cannot remember. I was very seriously ill.

Q. You see, you told us that Dr. Bell said when he came in what a good artist you were, and you thought he meant what a good actress. Was there anything else said at all?—A. Not on that occasion.

Q. On the next occasion?—A. No.

Q. May I take it you never remember anything being said between you and Dr. Bell with regard to this rubber tube—not a word?—A. We spoke about it, but I could not just tell you now what was said.

Q. And I suppose the same applies to Dr. Ritchie?—A. Dr. Ritchie said he did not want to know anything about it.

Q. Dr. Ritchie did come and see you, but he made no examination of any kind?—A. No.

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Q. What did he do? Put his hand up like that and say: "I do not want to hear a word about it"?—A. He just came hurrying into the room and said: "I do not want to hear anything about it" and went and sat down on the chair at the other side of the bed in my room.

Q. He was not there to see anybody else—there was only you in the room?—A. Yes.

Q. How long did he stay?—A. Only a second or two.

Q. Did he say anything else besides what you have told us?—A. No, he did not seem to say anything.

10 Q. Did you say anything?—A. I did not know what to say. I do not remember what I said.

Q. So that the position that Dr. Ritchie comes into the room, puts his hand up and says: "I do not want to hear anything" and sits down, there is complete silence for a couple of seconds and out he walks again?—A. Yes, I did not know what to do.

(Luncheon Adjournment.)

At 2 p.m.:

Mr. REIMER: When you left the hospital on the occasion Dr. Marsh was there, was your neck still swollen?—A. It was disappearing, there was
20 some swelling.

Q. And there was some swelling there on the day that Dr. Marsh examined you?—A. Yes.

Q. Quite obvious to anyone?—A. It was obvious to me.

Q. And somewhat the same type of swelling that you had been having for some months before?—A. No, not nearly so much.

Q. Were you able to eat at the time?—A. With difficulty.

Q. Were you still on the Bovril and thin arrowroot diet in St. Luke's Hospital?—A. No, I drank milk and soaked biscuits in the milk, that is
30 all the food I had. I tried a little porridge on occasions.

Q. And you could not manage it?—A. Well, I did not care for the porridge.

Q. Would it be correct to say that from the time you went into hospital on 26th October until the 30th, that you slept very well at night?—A. It would be quite incorrect.

Q. Would it be correct to say that you had comfortable days with no complaints?—A. I certainly had far from comfortable days.

Q. So any such statement would be quite incorrect?—A. It would not be correct.

40 Q. You can take it from me the day Dr. Marsh examined you was the 31st October. You knew the day before that Dr. Marsh was going to examine you?—A. No, I don't think I knew until that morning.

Q. How long after Dr. Bell made these statements that you have given evidence of was it that Dr. Marsh turned up?—A. The same day.

Q. Would it be correct that the day before Dr. Marsh saw you you were told to walk about more and to take some exercise?—A. Yes, I was told to try and walk about.

Q. Did you try to walk about?—A. Yes.

Q. And were you successful?—A. More or less successful, my husband took me up and down the corridor.

50 Q. Did you still have to hang on to things when you tried to walk?—A. No.

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Q. Could you walk on your own?—A. Yes.

Q. And was this a day or so after having arrived at St. Luke's Hospital?—A. I had been in St. Luke's Hospital some days.

Q. On the evening before Dr. Marsh examined you, do you remember refusing to take your evening meal?—A. My meals were brought to me each day, but I did not eat them.

Q. And you complained of a sore throat?—A. I had complained of a sore throat the whole time I was there.

Q. I am putting to you the first occasion you complained was the evening before Dr. Marsh saw you?—A. No. 10

Q. And as a result inhalations were prescribed?—A. Yes, I had inhalations.

Q. And did you refuse to take those?—A. Yes.

Q. And did you tell the staff that you refused because it was the inhalations that were giving you the sore throat?—A. I said the inhalations made my throat much worse and affected my eyes and they told me to keep my eyes covered.

Q. Later that night did you complain of having a burning feeling down your gullet?—A. Yes.

Q. And did you refuse them to permit them to give you any further treatment?—A. No. 20

Q. Did you say that the treatment that had been prescribed, the inhalations, was the cause of the burning feeling in your gullet?—A. No.

Q. The next day Dr. Marsh examined you?—A. I could not say it was the next day.

Q. Immediately after Dr. Marsh left you were much brighter?—A. No.

Q. If there is any such entry in the record that would be incorrect?—A. That certainly is incorrect.

Q. You, of course, had no spasms in St. Luke's Hospital?—A. No. 30

Q. And you have never had a spasm after the 2nd October?—A. No.

Q. After you left St. Luke's Hospital you went to Manly and Dr. Bell asked you to come in and see him after your holiday?—A. Yes.

Q. And you did call in to see him at his surgery in Macquarie Street?—A. Yes.

Q. And he had a look at your neck?—A. He looked at the outside of my throat, but he did not look inside my mouth.

Q. And he got you to move your head about?—A. No, I don't remember him doing that. 40

Q. Did you make any suggestion then that he was guilty or liable?—A. Dr. Bell knew.

Q. Did you make any suggestion?—A. I don't remember what I said on that occasion, I was in too big a hurry to get out.

Q. You called there of your own free will?—A. I called there as I said I would.

Q. There was no discussion about the tube business?—A. I don't remember.

Q. You are not suggesting there was any?—A. No, I just don't remember. 50

Q. Is it correct to say that within seven weeks of the time that you left St. Luke's Hospital you were back to normal?—A. No, I was not back to normal.

Q. That is the evidence you gave on the previous occasion, isn't it?—
A. No, I don't remember.

Q. That would be correct, you say?—A. It all depends on what you call normal.

Q. His Honour asked you: "You said that this was still . . . after the 2nd September, I think" (p. 19). Was that true or not?—A. What do you mean, my health or the swelling?

10 Q. The expression was used by your Counsel that you approved of, and I am asking you do you agree with that evidence or not?—A. I meant the swelling.

Q. You do not deny that that is what you said in the last hearing?—
A. No.

Q. And you said not one word of any illness or symptoms after you left St. Luke's Hospital, did you?—A. I don't remember.

Q. You know what evidence you have given in this case on this occasion, the abscess on the tonsil, the pressing of pus out of the tonsil by yourself and of Dr. O'Hanlon doing it, you never said a word of that on the previous occasion?—A. No, but my Counsel knew about it.

20 Q. Your answer is that you were just not asked?—A. Yes.

Q. And when you were asked when you came back to normal you did not mention a word of these abscesses on the tonsil, will you admit that?—A. I don't remember mentioning any.

Q. A pretty important thing, isn't it?—A. Yes.

Q. You told us about what Dr. O'Hanlon had done. You did show Dr. O'Hanlon, according to your evidence, something that you thought was a scar in your throat?—A. No, I did not ask him.

Q. Did he in fact look in your throat?—A. Yes.

Q. Did you ask him whether he could see a scar on your tonsil?—
A. No.

30 Q. Did he tell you that he could?—A. He did not actually say.

Q. You first became aware of the scar on your tonsil after you left St. Luke's?—A. Yes.

Q. And you first became aware of it when you say you saw it in a mirror when you painted your left tonsil?—A. Yes.

Q. You were asked then by Mr. Hardwick: "How did you know later . . . he said it was a scar." Do you adhere to that evidence?—A. Yes. Dr. O'Hanlon saw the scar and he said I was a very lucky woman to be alive.

40 Q. This was after you got back to Quirindi from St. Luke's?—
A. Yes.

Q. At his surgery?—A. No, he came to my house. He asked my husband's permission to see the scar.

Q. Who do you suggest told him about the scar, your husband?—
A. Yes.

Q. Was it before or after that that you had this abscess in your tonsil?—A. I had an abscess just before Dr. O'Hanlon saw me, two or three days before the abscess was still leaking, and I told the doctor about it, and it was then that he showed me how to drain it.

50 Q. At the time he looked into your throat there was still an open abscess in your tonsil leaking matter?—A. Yes, not constantly, of course.

Q. These abscesses you speak of, you had a number of them?—A. I had several of them.

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Q. And they came to a head?—A. Yes.

Q. And did they burst or did you cause them to burst?—A. I waited for them to burst, I hoped that each abscess would be the last.

Q. And after they burst you squeezed them?—A. No, I pressed them upwards with a swab of cotton wool.

Q. From inside your mouth?—A. Yes.

Q. Did you use tweezers?—A. Yes.

Q. The ordinary tweezers that you use for taking out splinters?—
A. About so long (indicating).

Q. About three inches long?—A. A little more than three inches. 10

Q. And you put cotton wool in them and squeezed the tonsil upwards and you saw the pus coming out?—A. Yes.

Q. And then you described this condition of yours to Dr. O'Hanlon, you told him of the condition and the abscess you had?—A. Yes, certainly.

Q. That was what Dr. O'Hanlon advised you to do?—A. He advised me to put my thumb down the side of my neck and push upwards.

Q. How far?—A. He did not say how far and I did not measure how far.

Q. On the left side?—A. Yes.

Q. And did you do that?—A. Yes, doctor did it then, and he saw 20
the scar, I did it after.

Q. As far as you know did the doctor get any pus out?—A. I don't know, but I think he did.

Q. Didn't he tell you?—A. No, he didn't, doctors don't tell.

Q. The next thing that happened was that you came down to the show at Easter time?—A. Yes.

Q. And you called on Dr. Bell?—A. Yes.

Q. You did not call on that occasion because he asked you to?—
A. No.

Q. Did you call on that occasion to see how much money you could 30
get out of him?—A. No, I did not.

Q. When you called did you ask Dr. Bell to have a look at your throat?—A. No.

Q. Did you ask him to examine you at all?—A. No.

Q. Did you ask him what the little puckering of the scar on the outside of the neck was?—A. No.

Q. The thing you referred to as where the drain was?—A. No.

Q. Did he tell you that that was probably caused by a big knot?—
A. No, there was nothing mentioned about the outside of my neck.

Q. Do you say that you asked him what caused the hole in your 40
tonsil?—A. No, my throat, in the left tonsil.

Q. And what did the doctor say?—A. He said it was caused by a large knot.

Q. Not from the operation?—A. He did not say.

Q. You took him to mean that?—A. Yes.

Q. Did you then ask him what he was going to do about the tube?—
A. Yes, I did.

Q. Didn't he ask "What do you mean"?—A. Yes.

Q. And didn't you say the tube that he had left in your neck when he performed the operation, and he told you that if you wanted to talk 50
like that you had better get out?—A. He told me I had better see my solicitor.

- Q. He asked you had you already seen Dr. Ritchie ?—A. No, not until after he told me to see my solicitor.
- Q. Did you go and see Dr. Ritchie ?—A. Yes.
- Q. And what did Dr. Ritchie say to you ?—A. He told me that he would have to see Dr. Bell and others, and he would be away at Melbourne for a few days, and to come back in ten days.
- Q. And did you go back in the ten days ?—A. No, I was too ill.
- Q. Dr. Ritchie did not tell you that it was a fantastic story ?—
A. No.
- 10 Q. He did not tell you that it was absolutely impossible ?—A. No.
- Q. He did not ask you to go away ?—A. No, he did not.
- Q. You mentioned when you were in the hospital in 1938 and had a tube taken out, you said Sister Ward was there ?—A. I think it was Ward, it may have been Wall.
- Q. Was she a lady that was on the short side ?—A. No, I would not say she was short.
- Q. Was she fair ?—A. Her complexion was medium, as to the colour of her hair I don't know.
- Q. Can you describe her in any way at all ?—A. She was fairly tall
20 and fairly plump and middle-aged.
- Q. Did you notice whether she had any infirmities of any kind ?—
A. No, I never noticed.
- Q. Did you notice whether she was slightly deaf ?—A. I did not notice.
- Q. Did she wear glasses ?—A. I don't remember glasses.
- Q. Was she a particularly good-natured type of woman ?—A. She was a very quiet type of woman.
- Q. Do you remember Sister Wills ?—A. No.
- Q. Or Sister McCallum ?—A. I don't remember the name.
- Q. Ward is the only name you remember ?—A. I think it was Ward,
30 I am not sure.
- Q. You know that when this action was commenced a request was made that you should be examined by medical men on behalf of Dr. Bell ?—A. Yes.
- Q. And it was refused, wasn't it ?—A. I think it was.
- Q. Your legal advisers acting on your behalf refused to allow you or your neck to be examined or seen by anybody on behalf of the defendant ?—A. At that stage, I think it was.
- Q. Wasn't that the fact ?—A. I cannot say that it was the fact.
- Q. You never have been examined by anyone on behalf of Dr. Bell
40 since the action commenced ?—A. No, I have not.
- Q. Have you had any tonsillar abscess since the last hearing ?—
A. No, none at all.
- Q. Do you remember at Mr. Hardwick's request Dr. Poate examined your tonsils in court ?—A. Yes.
- Q. And do you say they are in the same condition to-day or should be as they were then ?—A. As far as I know.
- Q. You have had no trouble of any kind, tonsillitis, quinsy or any abscess of any kind ?—A. No, nothing.
- Q. And may I take it that the statement supplied to us in the
50 particulars is correct, that during the period from March or April 1938 until October 1939, you were under the impression that you were going to die ?—A. Yes.

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Q. You did not think you were going to live?—A. After being told by doctors that I could not live one would naturally think I could not.

Q. Who told you?—A. I heard Dr. O'Hanlon tell some people.

Q. Did he ever tell you?—A. No, not directly.

Q. Who have you heard him say that to?—A. I heard him tell my sister and my husband and other people around the town.

Q. And did you feel yourself that you were a pretty hopeless case?—

A. I was still fighting on.

Q. Did you regard yourself as a person who might very easily die?—

A. Yes, but I was not giving up the fight. 10

Q. Would you mind turning your head from side to side and up and down? (Witness demonstrates.) Does that hurt?—A. No.

Q. Or do you feel anything pulling at all?—A. No.

Q. Since the time the swelling disappeared you have had no disability at all?—A. Yes, it was quite a long time before I could turn my head to the left.

Q. How long, months?—A. Yes, it was months.

Q. How many months do you say it was before you could turn your head to one side after the 2nd October?—A. Well, it was early in the New Year. 20

Q. Do you remember when you were in the lavatory emptying this pan you leaned against the door with your left shoulder?—A. Not the left shoulder, the left part of my body.

Q. And you had to do that because without support you would fall?—A. Yes.

Q. You were holding the pan in your right hand?—A. Yes.

Q. Was it your shoulder against the door or what?—A. No, not my shoulder.

Q. Would you mind showing us what you suggest you were doing? (Witness demonstrates.) And that was the position in which you got this chain?—A. Yes. 30

Q. I want to ask you just one thing more—I would like you once more to describe to the jury how Dr. Bell removed this tube? (Objected to: allowed.) Show us what he did?—A. He said the drain was not working and he would remove it, and he caught hold of something on the side of my neck and he shook it and then he pulled it and it did not come out and he put his hand on my forehead, I was lying back on the pillow, and he pulled, and something stung in my throat, and he threw something in the tray and walked out.

Q. And it was then that you saw some little black thing between his thumb and forefinger?—A. Dr. Bell stopped for a moment with it in his hand and put it in the tray. 40

His HONOR: For some very long time after that incident with Dr. Bell you were very ill and you thought you were likely to die and you spent a great part of your illness alone in the house?—A. Yes.

Q. And particularly coming up towards October 1939, you were quite alone in the place and feeling very weak?—A. Very weak.

Q. And giving a good deal of thought to your troubles?—A. No, with the pain I did not have time to think.

Q. Did you think that your troubles may have been related to some- 50
thing that Dr. Bell had done?—A. No, I had so many doctors that had seen me.

Q. So it never occurred to you to relate any of your troubles in your throat to his having said "Damn" at the time this tube came away?—
A. No, I thought he had removed the drain.

Re-examined.

Mr. HARDWICK : Do you remember Mr. Reimer showing you some photographs of your house in various positions. Did you see anyone in Court knocking any of the fences down or doing anything about the place to take the photographs?—A. Yes.

Q. Who were they?—A. Mr. Reimer and Mr. Rex.

10 Q. And what is the photograph they took? Was the fence between your place and the next place?—A. Yes, they were in the next door neighbour's spinach bed.

Q. And what is the one you say they took where the fence had to be interfered with?—A. The photograph of the back of the house.

Q. That very day that you saw these gentlemen taking the photographs, that is Dr. Bell's counsel and his solicitor, did the building inspector from the local Council make a call on you?—A. Not on that day.

Q. What day was it?—A. Some time early last week.

Q. Was that the first time he was there?—A. Yes.

20 Q. And did you know he was the Council's inspector?—A. Yes.

Q. Was there any explanation given for his wanting to come inside your house? (Objected to; pressed; permitted to be put as a negative.)

Q. Did he tell you why he wanted to come into the house?—A. No, he did not tell me.

Q. Some questions were asked you by Mr. Reimer with respect to the height of this commode in your bedroom; had anything been done by anybody to make it higher or lower?—A. No.

Q. Who got it built for you?—A. Mr. Hocking got it built.

Q. Was that after?—A. No, it was built before that.

30 Q. At what stage was it built for you?—A. It was not built for me; it was built eight or nine years ago and no alteration has been yet made.

Q. How was it as regards height in relation to your lavatory?—A. It is much lower.

Q. And was it more convenient in the state of health you were in?—A. Yes, much more convenient.

40 Q. You were asked questions yesterday relative to these symptoms you have deposed to, that you had over various parts of the body—you described your veins, muscles, and so forth. When were you first asked questions by anybody about your symptoms before you went into the witness box?—A. By Mr. Hardwick.

Q. When did I ask you?—A. Some time ago.

Q. Since you came down for the case?—A. It was on Monday, this time.

Q. You also stated to Mr. Reimer that you had massage while in Quirindi Hospital—you spoke of the nurses giving you massage—did Dr. O'Hanlon do anything to your body?—A. Yes. The day I was in the tetany spasm with the nurse working on me, Dr. O'Hanlon came. They used to shake talcum powder on my arms. Dr. O'Hanlon said to the sister: "Hey, give me a fistful of that," and he started to massage me.

50 Q. What part of the body did he massage?—A. I could not say—I was quite hurt about it.

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*No. 3.
Second
Trial.*

*Stella
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Hocking,
14th August
1942,
Re-examin-
ation.*

*In the
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Second
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Stella
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14th August
1942,
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ation,
continued.

Q. Do you remember (transcript, p. 51) being asked by Mr. Reimer :
"Q. When you saw this piece of tube, of course, you knew exactly what had happened according to your idea ; you knew where the piece of tube had come from when you saw it ?—A. Not exactly.

Q. When did you first make up your mind that this piece of tube came from the operation ?—A. A while after I saw it, I suppose."

Q. You have related to-day certain conversations you had with Dr. O'Hanlon and things he said to you ?—A. Yes. 10

Q. Apart from what Dr. O'Hanlon said to you, did your husband convey to you things that Dr. O'Hanlon said to him ? (Objected to ; it was not in answer to Mr. Reimer.)

His HONOR : I do not propose to admit without argument any conversation between Dr. O'Hanlon and either the Plaintiff or the husband. But Mr. Hardwick is asking a general question whether her husband and Dr. O'Hanlon had some conversation.

Mr. HARDWICK : Did your husband give you certain information also ?—A. Yes.

Q. Don't answer this : did your husband tell you anything Dr. O'Hanlon had told him ? (Objected to.) 20

His HONOR : What is the next question ?

Mr. HARDWICK : "What was it he told you ?"

His HONOR : My recollection would be imperfect, but I do not think Mr. Reimer opened up that subject.

Mr. HARDWICK : At page 39 he said : "Before you brought this action . . . you are merely imagining." That is the basis on which I am putting it.

His HONOR : I reject the question.

Mr. HARDWICK : You were asked by Mr. Reimer with respect to a conversation that Dr. O'Hanlon had with you on the night of the 6th October 1939, when he came down to your house ?—A. Yes. 30

Q. And at the hospital the next day ; do you remember being asked that ?—A. Yes.

Q. On the way home from the hospital in Dr. O'Hanlon's car what did he say to you ? (Objected to ; rejected.)

(Witness retired.)

PLAINTIFF :

Recalled :

Recalled,

Mr. HARDWICK : Since I was in St. Luke's Hospital in 1939 I have not had any affliction of my throat in any shape or form, not since somewhere round about five or six months after I left St. Luke's. I had abscesses on the tonsil as I described in-chief. That was following my return from St. Luke's, and I have not had any trouble at all since then. 40

(Witness retired.)

No. 4.

THIRD TRIAL.

EVIDENCE of Stella Eileen Hocking.

IN THE SUPREME COURT OF }
 NEW SOUTH WALES }
 No. 2 CAUSES. }

Coram : MAXWELL, J., and a
 Jury of Four.

Wednesday, 9th December, 1942.

HOCKING V. BELL.

In the
 Supreme
 Court of
 New South
 Wales.

Plaintiff's
 Evidence
 in previous
 Trials.

No. 4.
 Third Trial.

Mr. HARDWICK, K.C., and Mr. CARSON, appeared for the Plaintiff.

10 Mr. REIMER and Mr. LOXTON, appeared for the Defendant.

Stella
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 1942.

(Mr. Hardwick opened to the Jury.)

(Copies of hospital records tendered ; marked Exhibit A.)

PLAINTIFF :

Sworn : Examined : Deposed :

To Mr. HARDWICK : My name is Stella Eileen Hocking. I am the Plaintiff in this action. I am the wife of Edward Hocking, of Quirindi, where I live with my husband. Examination.

20 In April 1937 I was not very well. I went into Quirindi Hospital from 19th October until 15th November 1937 under Dr. O'Hanlon. Prior to that I had never been seriously ill ; I had never had anything the matter with me at all. After I came out of Quirindi Hospital on the 15th November I was still under Dr. O'Hanlon. I was not better in health. Certain advice was given to me to come down to Sydney to consult Dr. Ritchie.

I came down to Sydney on the 21st February 1938 and saw Dr. Ritchie, who advised me to go along and see Dr. Bell. After seeing Dr. Bell, Dr. Bell told me that I had a thyroid trouble which would have to be surgically dealt with by operation and suggested that I should go into St. Luke's Hospital.

30 I went into St. Luke's Hospital on the 27th February. Between the 27th February and the 15th March I was subjected to treatment. I remember on the 15th March being prepared for an operation in St. Luke's Hospital. After I came out of the operation I did not notice anything in my neck ; my neck was bandaged. I could not see it, but I knew there was something in my neck ; it was bandaged up.

Some days after the operation Dr. Bell said the drain was not working. I knew there was a drain in my neck—well, I was not sure. Dr. Bell said the drain was not working and that he would remove it. The drain was on this side of my neck. (Indicating right side.) There is a scar on my neck. (Indicating.)

40 Dr. Bell pulled the drain a little bit—gave it a little shake. It did not seem to come out easily, so he put his hand on my forehead to hold my head firm and pulled hard. Something came out. I felt a stinging in the neck, Dr. Bell said "Damn" and I said "Oh." I looked and he had a little black object in his fingers. I could see about half an inch of it.

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He threw it into the tray and he and the sister turned round and left the room. The half-inch that I saw was in his fingers. I had no idea whether there was anything behind it. After that incident I was very ill.

Q. Did you feel anything about your face and your neck?—A. It seemed very tight and swollen. I was running a terrible temperature and they were giving me hot packs, hot fomentations. After treatment for some time the wound burst, and after it discharged I began to feel a little better.

Q. Do you remember when the discharge began to come away Dr. Bell doing anything—do you remember him having an instrument of any kind and doing anything?—A. Probing. That was some days after. He said he was looking for the knots—picking the knots. 10

Q. Did you notice what the thing was like that he had?—A. It was a probe. It had two ends—it was a kind of pincers—forceps.

Q. You spoke about the particular part where the tube was. Where did the discharge come from?—A. In the centre here.

Q. Do you remember Dr. Bell, apart from saying he was looking for knots, doing anything when the sister was there?—A. He used to put his hands round my throat like so and press hard down and he would say to Sister "Now" and she would pick at my neck to see if she could get these knots. 20

I stayed in hospital until the 14th April. The discharge was still coming away when I left the hospital. It was a slight discharge—worse at times. At other times it would be very little. I remember before I went away having a sensation like pins and needles in my hands and feet. I discussed that with Dr. Bell. He said it was a slight tetany and with a few doses of calcium it would be alright. They were in tablet form. I was taking them while I was in hospital on Dr. Bell's prescription.

My husband took me home by car from Newcastle to Quirindi. After I got home to Quirindi some knots came out of this opening. I removed some knots. 30

(Six letters beginning 2nd May 1938 and ending 15th October 1939 tendered; marked Exhibit B.)

After I returned to Quirindi the pins and needles became much worse and some days after I returned I also noticed the pull of my muscles in my hands and feet. The first sign I noticed about my hands was that my thumb was drawn in like so. It did not make much difference to the position of my forearm in the first stages, but afterwards it drew up. I noticed pins and needles in my feet.

I remember Dr. O'Hanlon coming to see me at Quirindi; I do not know the date. I had been home a little over a week. I went to hospital on the 4th May. When Dr. O'Hanlon saw me on the 29th April 1938 my symptoms were getting worse. My hands and arms were being pulled in to the body and my feet were gradually being drawn up. I was still taking the calcium lactate tablets which Dr. Bell had prescribed for me. I went into Quirindi Hospital on the 4th May at Dr. O'Hanlon's suggestion, and was in the hospital until the 9th June. 40

Q. During the time you were there was any different treatment administered to you from what you had been having under the advice of Dr. Bell?—A. Yes, intravenous injections. I first had the intravenous injections when I had been in the hospital a little more than a week—it may be ten days. 50

Q. Do you remember whether you had any of these spasms which you have described?—A. Yes.

Q. Have you had a spasm before this injection?—A. Yes.

Q. What was the nature of it?—A. It started with my hands. It drew my hands and arms right in to my body, and my legs were drawn right up towards my stomach. Then I lost consciousness after that. When I came to consciousness I had been given an intravenous injection some time before. I had the injections in the hospital almost every day. There were some days missed. When the injections were missed I would
10 have a spasm. I could not say exactly how many spasms I had while I was in Quirindi Hospital; it would be five or six. The discharge was still coming away. My neck was swollen. Sometimes it would be swollen more than others. I was having the calcium treatment there. I had the hot fomentations for the swelling. They were frequent; at times they were very frequent.

Q. While you were in the hospital having this treatment do you remember on one occasion noticing something when you did something?—A. Yes. One night I turned my head round quickly and something started to stick into the left side of my neck and blood started to run out down my chest.

20 Q. Did you ever feel such similar sensation at any time after that?—A. On occasions, but not as bad as on that occasion. I was always very careful; I would never turn my head in a hurry.

Q. Do you remember how long after you had been in Quirindi Hospital this happened?—A. About a fortnight.

Q. You have described these symptoms. Did they get worse at any time you were in Quirindi Hospital or have you described what happened up to the time you left the hospital?—A. On one occasion I had cramps in the side of my face. One side of my face seemed to be terribly pulled, and one eye. I had tetany slightly in my hands, but not very bad. It was
30 not so bad in my hand. I reached for the hand mirror and lifted the eyelid of my left eye. I had to pull very hard to pull it back to see. The left eye was pulled backwards. The right side of my face was not affected, but the left side was.

Q. Do you remember while you were in the hospital any other treatment being given to any parts that were affected—do you remember any massage being given you at any time?—A. Yes, when I would have the spasms coming on the matron and nurses would massage my arms and my limbs, and of course the side of my face too. It was only light massage.

40 On the 9th June I left hospital under the care of Sister Sly who came up from Sydney. She stayed with me for about six weeks, then I went back home. While I was at home Dr. O'Hanlon called every day and gave me intravenous injections. I had the injections every day for about four weeks.

Q. Did you have any of these attacks notwithstanding these injections when Sister Sly was there?—A. On some occasions I had slight attacks but I do not remember having a severe attack.

Q. When Sister Sly was there did your condition improve somewhat from what it had been?—A. Yes, it improved at times.

50 Q. Did this wound that had been opened at Quirindi Hospital heal up?—A. Yes, it healed up while Sister Sly was there. It was just about four months after the operation. The opening healed up, it must have been about a week or two before Sister Sly left me. After Sister Sly went

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away I gradually grew worse. I had visits from Dr. O'Hanlon on occasions but not very often. I remember in September going back to Quirindi Hospital—on 3rd September 1938.

Q. Was your condition on the 3rd September worse than it was when Sister Sly left you?—A. Certainly. I was in a bad tetany turn when the doctor called. He took me to hospital and I did not know I was there until the next day. I did not know anything about having any treatment there.

Q. The hospital records disclose that you had an intravenous injection in September. Did you know anything about that?—A. I did not know 10 until after.

Q. Prior to that date was there a time when the doctor ceased coming over to you?—A. Yes. That was when Sister Sly was there.

Q. Was there any trouble with your veins?—A. Yes.

Q. Was he able to give you an intravenous injection?—A. No.

Q. Was there any other treatment substituted for it?—A. Yes, paroiden. That was injected into the skin, not into the vein.

I remember when I was in Quirindi Hospital Dr. O'Hanlon doing something to the area where the incision was made. He had probed it on several occasions. I remember him giving me a local anæsthetic. I had a 20 blubber on the right side, slightly towards the front, and he cut it off. The doctor said it was a blubber-skin. I stayed in Quirindi Hospital a few days, then I went back home.

Q. How was your condition after September 1938?—A. Sometimes a little better and sometimes worse.

Q. Did Dr. O'Hanlon cease to come to the house?—A. Yes. My sister and my husband had been shown what to do. My sister and my husband used to give me treatment.

I do not remember the last date in 1938 I saw Dr. O'Hanlon. I remember seeing him in 1939. I do not remember how many times I saw 30 him in 1939; it was not very often.

Q. Did you have any cough at any time?—A. I had a cough when I was in St. Luke's Hospital. I do not remember how long that continued; it was not very long. It was after the operation.

I remember in 1939 I had a Mrs. Fisher assisting me in the home. She was only there from time to time. She used to come in the morning and go home in the evening various times. She was there at various periods during 1939. I remember my daughter coming home from school in September 1939 and Dr. O'Hanlon coming on that occasion.

Q. During all that year were you ever about the streets or anything 40 like that; were you ever out of your house?—A. No; I was really very ill. My time was spent mostly in bed. I was unable to dress. I found if I tried to dress I would take ill and I was unable to undress. I was very weak.

Q. During this time were you having these spasms which you have described?—A. Yes.

Q. Did they ever get worse than the way you have described?—A. Yes, they gradually grew worse towards the end of the year 1939.

Q. When do you say was your worst period? Do you remember the doctor coming in September 1939?—A. Yes. 50

Q. Had you been bad before then?—A. Yes. I gradually grew worse from then up till October.

Q. After the wound closed in July what happened about your neck and your face?—A. My neck and face became more swollen. At various times it was very swollen. My left shoulder would swell right in a lump at the back and down my arm.

Q. Was the swelling worse after the wound healed up?—A. Yes, much worse. When I was in Qurindi I was given hot fomentations over a period of time. There was swelling there. The swelling became worse after the wound closed up, and the spasms which I have described became worse.

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10 Q. Did you ever go out in a car to anybody's place with your husband during that year?—A. I had been out on one occasion. I went to the doctor's once. I do not remember when that was. I was very ill after that. The doctor was called in some time later.

No. 4.
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My birthday was on the 2nd October. For some period before that I had noticed a coating in my mouth like pus. I was constantly spitting pus out of my mouth and from my tongue. It gradually grew worse. It was very bad on the 2nd October.

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Q. Had you had any of these spasms which you have described?—A. Yes, on the Sunday, the 1st, I was you might say constantly drawn up with the spasms, and on the 2nd I was really terribly ill—I was continually drawn up; sometimes relaxed a little, at other times drawn up more. Somewhere about 3 o'clock I was seriously ill. I seemed to be choking. Something seemed to burst into my mouth. My jaws were set; I could neither open nor shut my mouth. My husband put some water between my teeth. I coughed and I swallowed whatever I had in my mouth.

Q. Did you at that time know what it was?—A. No.

Q. Or where it had come from?—A. No.

Q. It was on which side?—A. Well, it was on my tongue. I noticed it had come from the left side.

30 Q. What was your condition of health the next day?—A. I was still very ill the next day, and I was ill the day after. I had a sort of a pricking sensation in the stomach like as if something was just slightly sticking in me as it was moving in the stomach—just slight, you know. I conferred with my husband and he gave me a dose of medicine. That was on the Monday morning, the 2nd.

Q. You said the choking was at 3 o'clock?—A. Yes, 3 o'clock on the Monday.

Q. When did you feel these pains in the stomach?—A. About the Wednesday.

40 Q. And when did you take the medicine?—A. It must have been Wednesday.

Q. Did you have any natural functions after the medicine?—A. Yes, on the Thursday. Early in the morning on the Thursday I took some castor oil.

50 Q. When had you obeyed nature's call?—A. Round about 7 o'clock. I do not know the exact time. I had a commode in the bedroom near the bed. After this happening I went back to bed. I got up afterwards to empty the pan. My bedroom was almost next to the lavatory; it was just across the verandah. I had to go about as far from here to the end of the desk there. (Indicating.) I was really very weak. I could not stand up straight at all. I could only just crawl about—like crawling. I took the pan to the lavatory and I noticed there was something in it.

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Q. Whereabouts did you notice that fact?—A. When I was going between the bedroom door and the toilet. I picked it out and I squeezed it in my fingers and some greenish yellow looking pus ran out of it down my fingers. I did not know what it was. I had it in my fingers and the pan in the other hand, and I went to reach for the ring—

Q. Did you hear anything?—A. Yes, I heard someone coming. I was flurried at the steps of someone coming and seeing me, and I hurried into the toilet and in the excitement I went to pull the chain with this in my fingers and trembling, and it dropped, and of course it went. I looked in the cistern. 10

His HONOR: What time was this?—A. It would be somewhere round about 8 o'clock.

To Mr. HARDWICK: My husband had gone away previously to 8 o'clock. I did not know where he had gone. After this happened I went back to bed. When my husband came I communicated to him what I had noticed. I remember reproducing it on paper some time during the day. I showed that paper to my husband. I saw Dr. O'Hanlon afterwards, on Friday the 6th. He came down to my place. I remember that piece of paper (produced) being handed to him. That is the thing I had drawn that day. My husband handed that paper to Dr. O'Hanlon. 20
The thing seemed to have a swab in it, with two pieces of wire sticking out—like wires. I pressed it with my fingers like that and when I pressed it back it sprang back straight again. It was easily bent, but it would swing back straight.

Q. Did you know what it was when you saw it?—A. No. I remember showing that thing to Dr. O'Hanlon.

(Sketch of object tendered and marked Exhibit C.)

Q. When did you first know it had anything to do with the drainage tube?—A. After a conversation I had with Dr. O'Hanlon. On the Saturday morning Dr. O'Hanlon took me up to Quirindi Hospital to be 30
X-rayed. I had a conversation with Dr. O'Hanlon. The next day I went to Quirindi Hospital, where I was X-rayed by Dr. O'Hanlon. I was not able to stand up alone. I was not able to walk from my home to the car; I was helped by the doctor and my husband. From the car to the hospital I was wheeled in a wheel chair. When I was being X-rayed I was not able to stand up alone; my husband and the nurse held me up. After I had been X-rayed at the hospital I went back home. I still stayed in bed. There was pus coming from the inside of my mouth. I was gargling my throat and scraping and washing my tongue with a toothbrush. I think Dr. O'Hanlon tried to look in my mouth, but my mouth was swollen 40
and he could not see anything. It was very swollen. After I came home I was gargling my throat with Solyptol, I think it was.

I remember writing a letter to Dr. Bell and receiving a reply from him. After I had heard from Dr. Bell I came down to St. Luke's Hospital. Before I came down to St. Luke's Hospital no examination of my throat was made by Dr. O'Hanlon. During all the time from the 5th October until I came down to Sydney on the 26th October I was gargling my throat and there was matter coming away. I was not able to see anything myself. You could not see very well, not at that stage.

Q. What was your state of health when you came down to St. Luke's Hospital in October 1939?—A. I was much better than I had been, but I was still very seriously ill. I was carried out of bed and put in the car and carried from there on to the station and put in a sleeper and brought to Sydney, where I was met by ambulance and taken to St. Luke's Hospital. I saw Dr. Bell the day I arrived at St. Luke's Hospital. On the 26th October, the first day I went there, Dr. Bell did not look into my mouth. He looked me over—what you would call a look-over examination. I was very thin, and he asked me had I had any chest trouble. I said that I had not. He

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10 did not make any examination of the inside of my throat.

Q. Were you given any treatment in St. Luke's Hospital for your throat?—A. Yes. I do not know what it was—the name of the treatment.

Dr. Bell said he had heard from Dr. O'Hanlon and he said he had got the sketch and it was very good. For the moment I did not know what sketch or what picture it was. He said that it was really very good.

Q. What treatment did you have when you went into the hospital? A. I had inhalation treatment, and some other treatment—it was terribly cruel, the treatment; I do not know what it was. There was something put in my drinking water, and I had my throat painted by the nurses.

20 Q. At any time after you came down did Dr. Bell ever look at your throat?—A. Not until after the treatment. I said to Dr. Bell when he came in one morning that the pus had cleared away from the back of my throat. He had a look and he said to see Dr. Marsh. He sent for Dr. Marsh to come then. That was about the fifth day after I returned to the hospital.

Q. During all these five days had you had these inhalations and what was put in your drinking water?—A. Yes.

Q. Was it put in the water all the time?—A. Yes.

30 Q. Do you remember another doctor coming out on one occasion?—A. Yes. That was Dr. Tebbutt. I thought it was Dr. Hansman, but I now know it was Dr. Tebbutt. He came out to take a blood test. He tried to take it out of my right arm and I told him I did not think he could take it out of my right arm. He was rather annoyed at my telling him that. He told me not to tell him his business, that he had been taking blood tests for over 20 years.

He kept on trying for some time. I said if he would allow me to help him he might possibly get it out of my left arm, so I helped him get it out of the left arm and he took it away. Dr. Ritchie was not there. Dr. Ritchie came afterwards and wanted to know why they took the blood down here.

40 He said you usually take it here, at the elbow. Dr. Ritchie did not make any examination of me during the time I was in the hospital. I left there on the 3rd November and went to Manly.

Q. Had you made any arrangements to see Dr. Ritchie?—A. Yes, Dr. Ritchie asked me to call and see him before I went home. I called on him with my husband after I went down to Manly and he gave me a prescription (produced).

(Prescription dated 10th November 1939, tendered and marked Exhibit D.)

50 Q. Had you been taking those things before which Dr. Ritchie prescribed on that occasion?—A. Yes. I first started taking them after the operation in 1938.

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After that I went back to Quirindi. I did not have any more tetany attacks after that incident on the 2nd October; that was the last tetany attack of the type I have described.

Q. Did you take paroidin after this incident of the 2nd October?—

A. Only on occasions, before I came down to the hospital, not after.

Q. Then you took what Dr. Ritchie prescribed?—A. Yes. He prescribed tablets and Halivol capsules.

Q. Did you notice anything about the movement of your neck after this happening?—A. It gradually grew better. It was not really free for some months, I suppose. I could never turn round. To turn round I 10 would have to turn the whole of my body round if I had to turn to the left. I felt pain if I tried to turn my head. I had constant pain in my neck.

Q. When do you fix the time when you lost that pain and got freedom of movement in your neck?—A. After the 2nd October. From then on it gradually grew better.

Q. After you got back from being down here in Sydney did you have any more discharge from inside your mouth?—A. Yes, I had quite a number of abscesses. The last bad one was just before I came to see Dr. Bell in March 1940. Pus was coming away.

Q. Had you any colds or any throat affections at all during this 20 period?—A. No.

Q. Had you any tonsil trouble or anything like that?—A. No.

Q. While you were at home did you see Dr. O'Hanlon about this abscess that you were talking about?—A. Yes.

Q. Did you treat it yourself?—A. Dr. O'Hanlon showed me how to treat it. He showed me how to put my thumb in the side and push upwards with the thumb so that it would drain. I did that and painted it.

Q. Did you notice at any time any mark on the inside of your mouth?—A. Yes, there was a scar on the inside, on the left tonsil. I have never had any tonsil trouble since. 30

Q. In March 1940 do you remember coming down to Sydney at the time of the Easter Show?—A. Yes. My husband came with me and we went along to see Dr. Bell at his rooms.

Q. Just tell us what conversation you and your husband had with Dr. Bell?—A. The doctor asked me had I come down for the show. I cannot remember what my remark was. I asked him what he was going to do about the drain. He said he did not leave the drain there. I said that he did. He said to see my solicitors if I was going to talk that way. He asked me then had I seen Dr. Ritchie. I said I had not seen Dr. Ritchie. He said to go and see Dr. Ritchie. I went and saw Dr. Ritchie. 40

Q. Do you remember your husband making some remark about something inside your mouth?—A. Yes. He said there was a scar on the inside of my mouth. He indicated the spot—in the tonsil. Dr. Bell said that was caused by a large knot.

Q. You remember describing this tetany in your arms and hands and legs and the side of your face. Did you notice anything about the blood vessels of your body?—A. Yes, my blood vessels used to be terribly swollen.

Q. Will you indicate where?—A. On the backs of my hands.

Q. Those are your veins?—A. Yes. 50

Q. Did you notice anything about your tongue at any time?—A. The muscles of my tongue were drawn very tight, and my jaws. The tongue would kind of draw up.

Q. Do you remember when you were in Sr. Luke's Hospital last time Dr. Marsh seeing you?—A. Yes, he prescribed for me. I had to gargle my throat and paint it. I first saw this scar on my tonsil when I was painting my throat. I had seen the scar on the inside of my mouth since. It is still there.

Q. Is there any mark on the outside of your neck that you can point to?—A. Yes, I have a slight hollow there in the neck. Sometimes you can see it more plainly than others.

10 to.) Q. Was that in relation to anything you felt at any time?—(Objected

Q. Do you remember describing when you were in Quirindi Hospital about turning your head and feeling something?—A. Yes.

Q. Will you tell us whereabouts you felt that?—A. Here on the side (indicating).

Q. Whereabouts is that in relation to that depression which you point to?—A. Somewhere here (indicating).

Q. Close to the depression?—A. Yes.

Q. Do you remember saying about your thumb being across the palm of your hand?—A. Yes.

20 Q. Did your hands ever get into any other position?—A. Yes, in the later stages it was drawn right round until the fingers would draw tightly into the palm like so.

Q. Your nails were into the palm of your hand?—A. Yes.

(Correspondence, Exhibit B, read.)

Cross-examined.

Mr. REIMER: Before you went and saw Dr. Bell you had been in somewhat indifferent health for a little time?—A. Yes.

Q. You had first consulted Dr. O'Hanlon round about August 1937?—A. Yes.

30 Q. And from that time on you had some rash condition on your shoulders or back? And up the back of your neck?—A. On the back of my neck.

Q. Which Dr. O'Hanlon tried to treat but was unable to do much for you; do you remember that?—A. Yes.

Q. And he advised you to come to Sydney and see a skin specialist?—A. Yes.

Q. And gave you a letter of introduction to Dr. John Witton Flynn?—A. Yes.

Q. And you saw Dr. Flynn?—A. Yes.

40 No. Q. And did he tell you what he diagnosed your condition as?—A.

Q. You then went back to Dr. O'Hanlon and he put you immediately into Quirindi Hospital?—A. Yes.

Q. The same day as you got back to Quirindi?—A. No, it was not the same day.

Q. Very soon afterwards?—A. A week or two after.

Q. At all events, shortly after you got back to Quirindi you went into hospital?—A. Yes.

50 Q. And you were admitted into Quirindi Hospital under the diagnosis of Dr. O'Hanlon of neurasthenia?—A. I do not know what I was there for.

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Q. Did you know at that time that you were suffering from what is commonly known as a goitre?—A. No.

Q. You did not know or realise you had any enlargement of the gland—anything of that nature at all?—A. No.

Q. You knew at the time that your heart was giving you considerable trouble?—A. At that stage it was giving me some trouble.

Q. And there were other symptoms which indicated that you were far from well at the time?—A. No, I was not well.

Q. And eventually Dr. O'Hanlon advised you to go and see specialists in Sydney?—A. Yes. 10

Q. And he told you that the condition was one which might necessitate an operation?—A. No, he did not say.

Q. Nothing about an operation was mentioned at all?—A. No, nothing about an operation.

Q. You then came to Sydney with a letter from Dr. O'Hanlon to Dr. Ritchie?—A. Yes.

Q. And Dr. Ritchie, as you have already told us, informed you that you would require an operation?—A. Dr. Ritchie said that I could be treated without an operation.

Q. Did he advise an operation?—A. Yes. 20

Q. Did he advise an immediate operation?—A. Well, no.

Q. Did he tell you at the time what he considered you were suffering from?—A. He did not say.

Q. You went along to Dr. Bell on the same day as you saw Dr. Ritchie, namely, on the 21st February?—A. Yes.

Q. And, after consulting Dr. Bell, you immediately arranged to go into St. Luke's Hospital and did enter on the 22nd February?—A. Yes.

Q. Did you then know why you went into St. Luke's Hospital?—A. No one had told me.

Q. Did you know that you were to undergo an operation?—A. Yes. 30

Q. Did you have any idea what the operation was for?—A. No, not exactly.

Q. Did you know what the object of the operation was—I do not mean the details or the technique?—A. I cannot say that I did.

His HONOR: When you say "Not exactly," what have you in mind?—A. It was not discussed.

Q. What did you know?—A. I knew that I needed an operation to my throat.

Mr. REIMER: Did you know what type of operation or what it was for?—A. To my throat, that was all I knew. I knew it was not tonsils. 40 I thought it had something to do with my heart, but Dr. Bell did not go into any detail.

Q. That is all you knew?—A. Yes.

Q. Then you were treated in St. Luke's Hospital from the 22nd February till the 15th March for preparation to undergo the operation?—A. Yes.

Q. You knew that the operation you were undergoing would be a serious operation?—A. No, I did not know it was that serious.

Q. You realised that the period from the 22nd February to the 15th March was for the purpose of preparing you for the operation?—A. 50 Yes.

Q. And Dr. Bell and Dr. Ritchie attended to you very frequently during that period?—A. They looked in each morning, that is all I can say.

Q. They visited you regularly to see how you were getting on?—A. Yes.

(At this stage the further hearing was adjourned until Thursday, 10th December, 1942.)

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Coram : MAXWELL, J., and a Jury
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SECOND DAY—Thursday, 10th December 1942.

PLAINTIFF :

Cross-examination continued :

Mr. REIMER : I was asking you yesterday about your presence in St. Luke's Hospital in 1938. You know, of course, that the operation which was performed on you was an operation which involved the lower portion of your neck?—A. I do know now.

Q. And that that operation involved the opening up of a considerable portion of the interior of your neck ; you know that now?—A. Yes.

20 Q. And you know that the tube was in fact removed within 48 hours of the operation ; do you know that now?—A. No. I have heard it but I do not know that it really was.

Q. Are you still under the impression that it was some five or six days afterwards?—A. Yes.

Q. You are not prepared to admit that it could have been two days in view of your present information?—A. I could not say just when it was.

Q. Are you prepared to admit that it might be two days after the operation?—A. It was longer than two days.

30 Q. Whenever it was, at that time the wound in your neck had not healed—I mean the wound was still a recent one?—A. Yes.

Q. The stitches had not been removed?—A. No.

Q. At the time of the removal according to your account, Dr. Bell was attended by Sister Ward?—A. By a nurse. I could not say it was Sister Ward.

Q. You swore on a previous occasion that it was Sister Ward?—A. I thought the name was Sister Ward.

Q. Do you still think it was Sister Ward?—A. Well, I do not know any other name.

40 Q. You saw Sister Ward in the box on a previous occasion?—A. Yes. It was not that nurse.

Q. Did you know the names of the two senior sisters in charge of the ward at the time?—A. No.

Q. You saw them both give evidence on a previous occasion—Sister McCallum and Sister Will?—A. Yes.

Q. And did you recognise them?—A. I think I did.

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His HONOR : Whatever the name may be, you did yesterday describe her as a sister, did you not—yesterday when you were describing what happened ?—A. Yes, a sister.

Q. You know the difference between a sister and a nurse ?—A. Yes.

Q. And knowing that difference you say it was a sister ?—A. It was a sister. I do not know the names.

Mr. REIMER : Do you remember Sister Will and Sister McCallum at the hospital ?—A. Yes.

Q. And you saw them give evidence at a previous hearing ?—A. Yes.

Q. Did you recognise them ?—A. Well, yes.

Q. Was it either of those who attended Dr. Bell ?—A. No.

Q. Do you know of any other sister who attended you at St. Luke's Hospital, apart from the three I have mentioned ?—A. I do not know the names. Quite a number of nurses attended to me.

Q. I am asking you, do you know of any other sister except one of those three who attended you at St. Luke's Hospital in 1938 ?—A. I do not remember.

Q. When Dr. Bell you say attempted to remove this tube he had difficulty in doing so ?—A. Yes.

Q. He used no gloves ?—A. No.

Q. He used no forceps ?—A. No.

Q. No tweezers ?—A. No.

Q. He used his bare thumb and finger ?—A. He just caught it in his hand.

Q. Without any instrument or anything of that nature ?—A. No.

Q. Was there a tray there ?—A. The tray was back where the sister was.

Q. That is, alongside the bed ?—A. I do not know where the sister was with the tray just at the time.

Q. Don't you remember saying that Dr. Bell threw the piece of tube into the tray ?—A. Sister stepped to the bedside just then, but where she was when doctor started to remove the drain I do not know.

Q. She was in the ward ?—A. Yes.

Q. You had a private room ?—A. Yes.

Q. And the sister was in attendance on Dr. Bell at the time ?—A. Yes, she was somewhere around.

His HONOR : Was that a sister who had been attending him with you before ?—A. Yes, she had been in on occasions, but it was not always the same nurse or sister that came with the doctor.

Q. The sister who was present when you say this happened had also been present prior to this occasion ?—A. I really do not remember before and very little after.

Mr. REIMER : You had a special night nurse or sister for a few days ?—A. Yes.

Q. Sister McEwan ?—A. Yes.

Q. It was not her ?—A. No, it was not her.

Q. Of the members of the staff of St. Luke's Hospital, there are only the three names I have mentioned that you can remember ; you remember no others ?—A. No.

Q. When Dr. Bell removed or attempted to remove the tube is it correct that he tried to remove the tube ?—A. Yes.

- Q. Then he pulled a couple of times very hard ?—A. No, he did not pull very hard. He pulled firmly.
- Q. Is that correct ?—A. No.
- Q. “ Then he put his hand on my forehead and pulled hard ”—is that correct ?—A. Yes, he put his hand on my forehead and pulled.
- Q. Is what I read to you correct ?—A. He pulled harder than he had done on the first occasion.
- Q. I am reading to you the exact words that you used on a previous occasion and I want to know whether this is correct or not ; “ Dr. Bell
10 tried to remove the drain. He pulled a couple of times very hard, then he put his hand ”—(Objected to ; His Honor suggested that the question might be split up.)
- Q. Is it correct that Dr. Bell tried to remove the drain ?—A. Yes.
- Q. Is it correct that he pulled a couple of times very hard ?—A. Yes.
- Q. Is it correct that he then put his hand on your forehead ?—A. Yes.
- Q. Is it correct that he then pulled hard and the drain came out ?—A. Yes.
- Q. Is it correct that when he pulled it did not seem to come out ?—A. When he pulled hard it came out.
- 20 Q. Is it correct that when he pulled it did not seem to come out ?—A. No.
- Q. Did he pull hard before he put his hand on your forehead ?—A. Yes.
- Q. And he was unable to remove the drain at that stage ?—A. Yes.
- Q. That, of course, was after he had loosened a stitch on the drain, as you call it ? You remember you gave evidence that he loosened a stitch ?—A. Yes.
- Q. All this happened after he had loosened or removed that stitch ?—A. Yes.
- 30 Q. Your suggestion in the whole of this case is that he pulled so hard that the tube was broken into two parts ? Is that your allegation against Dr. Bell, that he pulled so hard that the tube was broken into two separate parts ?—A. The tube broke.
- Q. Is that your allegation against Dr. Bell ?—A. Yes, I suppose it is.
- Q. It is, madam ?—A. Yes.
- Q. When he put his hand on your forehead he did so for the purpose of obtaining leverage ?—A. No.
- Q. Is not that what you swore on a previous occasion ?—A. Well, I did not mean that—not for leverage.
- 40 Q. In order to get something ?—A. He held my head firm.
- Q. And your head was against a pillow at the head of the bed ?—A. No, I do not remember whether my head was against the pillow or not. I do not remember the pillow.
- Q. Two or three or four days after the operation you were sitting up in bed ?—A. Yes.
- Q. You had no support of any kind then, you suggest ?—A. Yes, I had at my back.
- Q. When he put his hand on your forehead did he hold it very firmly ?—A. Well, quite firmly.
- 50 Q. Did your head go back ?—A. I do not remember my head going back, not right back.
- Q. Do you remember it being pushed back ?—

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His HONOR : You said " Not right back." Does that mean it did go back ?—A. It just went back firmly.

Q. It did go back but not right back ?—A. Yes, not right back.

Mr. REIMER : When Dr. Bell had taken out this portion of the tube as you allege, he looked at it ?—A. Yes.

Q. And there is no doubt that the piece you saw between his fingers appeared, as far as you could see, to be about half an inch long ?—A. Yes.

Q. You know now that Dr. Bell was the surgeon who in fact operated on you ?—A. Yes.

Q. And you realise that he would know the length of the tube that he had inserted in your wound ?—A. Well, I suppose he would. 10

Q. You realise that he would ?—A. Yes, he should.

Q. And you have said on a previous occasion that Dr. Bell must have known that he had left this tube in your neck. Do you still say that ?—A. From my present experience, I will say he certainly must have known.

Q. After he had looked at this half-inch piece between his fingers, you say he threw it into the tray and walked out ?—A. Yes.

Q. He never said a word to you ?—A. No.

Q. He made no attempt to have you removed to the operating theatre or to do anything further to your throat at that time ?—A. No. 20

Q. At no time prior to that had he interfered with the tube after the operation ?—A. No.

Q. And after the occasion when it was removed or supposed to be removed he never again did anything in the way of interfering with the place where the tube had been ?—A. Yes, he searched my neck every morning—he looked at my throat every morning.

Q. What do you suggest he was searching ?—A. By " search " he said he was looking for knots.

Q. Your evidence is that he put his hands behind your neck and pushed forward, pressing downwards ; is that right ?—A. No, he did not put it at the back ; he put it around that way and pressed (demonstrating). 30

His HONOR : That is, with the fingers to the back and the thumbs to the front ?—A. Yes.

Mr. REIMER : He pressed hard ?—A. Well, firmly.

Q. And that would be during the period that you had this infection in the sinus as it has been called, that is, the centre of the wound ?—A. It was after that, too.

Q. It was after that infection had started ?—A. Yes.

Q. And it was after the discharge was coming from the sinus that he did that ? You had a discharge from the time it appeared until the time you left St. Luke's Hospital ?—A. Yes. 40

Q. During that period it was when Dr. Bell pressed as you say very hard on your neck ?—A. Yes. He continued this treatment up till I left the hospital, and the last occasion was on the day I left the hospital.

Q. And when he did this you say one of the sisters would pick out knots ?—A. No. They would pick, but they did not get any knots.

Q. But you were told that they were looking for knots ?—A. Yes.

Q. When Dr. Bell broke this tube, according to you, was there any bleeding ?—A. I do not know.

Q. Did your wound break open in any way ?—A. I could not tell you. 50

Q. Not to your knowledge ?—A. Not to my knowledge.

Q. You had no information or knowledge that there was any bleeding or anything of that nature as a result of Dr. Bell's attempt to remove the tube?—A. No.

Q. You did not complain to anybody of Dr. Bell's treatment at the time?—A. No.

Q. You did not complain either to Dr. Bell or to Dr. Ritchie, your physician?—A. No.

Q. Nor to any member of the hospital staff?—A. No, they knew about it.

10 Q. You say they knew about it?—A. Yes.

Q. After Dr. Bell had attempted as you say to remove the tube, did he at any time do anything himself to the actual sinus or the wound with any instrument or anything of that nature?—A. I do not remember clearly. He used to keep the wound open with a probe.

Q. That was a little fine steel, putting it through the sinus to keep it open?—A. No, it was a longer—

Q. You know what a probe is?—A. Yes.

Q. Do you recognise that type of instrument (produced)?—A. Yes, he has used that. That is not the one I mean that he kept the wound open
20 with. That is one that he probed the wound with, but not the one that he kept the wound open with.

(Instrument m.f.i. 1.)

Q. You did not think when this happened that anything untoward had taken place?—A. No.

Q. You did not feel the presence of any foreign body in your neck?—A. No.

Q. And not even did you feel that when Dr. Bell pressed down the sides of your neck?—A. It hurt very much.

Q. I am asking you did you feel the presence of anything in the nature
30 of a foreign body?—A. No.

Q. As you said on a previous occasion, when Dr. Bell did press on your neck as you described, he pressed very hard; is that right?—A. Yes.

Q. Did you say at St. Luke's Hospital after the tube was removed to a member of the staff that you adored Dr. Bell?—A. No.

Q. Have you ever said that?—A. Yes.

Q. To a member of the staff?—A. Yes.

Q. Did you tell them that Dr. Bell was a very gentle man?—A. No.

Q. Never?—A. No, never.

Q. Did you regard him as a gentle man?—A. Not altogether rough.
40 Well, yes, he would be gentle.

Q. Did you say that he was rather a nice man?—A. No.

Q. Did you ever say that to any member of the staff?—A. No.

Q. Was that your opinion at the time that he was rather a nice man?
—A. I suppose it would be.

Q. You have given evidence to that effect before, have you not, that at the time you were in hospital in 1938 you regarded Dr. Bell as a rather nice man?—A. Yes.

Q. And a rather gentle man?—A. Yes.

His HONOR: At the time you were waiting to be prepared for the
50 operation Dr. Bell called to see you?—A. Yes, he called each morning.

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Q. Did you find him thoughtful for you in every way at that time as far as you could tell?—A. As far as I knew. He would just look in the door in the morning and he was gone.

Q. As far as the operation was concerned, did he appear to be thoughtful for your condition at all times?—A. As far as I knew.

Mr. REIMER: According to you, you allege that Dr. Bell knowingly left this tube in your throat and allowed you to leave the hospital; is that right?—A. Yes.

Q. Is that your allegation against Dr. Bell?—A. Yes.

Q. And you say he never mentioned it to either you or your husband or to anybody else?—A. Well, he did not mention it to me.

Q. And, as far as you know, it has never been mentioned to anybody?—A. I do not know.

Q. And you were allowed to go back to Quirindi with this tube in your throat; that is right?—A. Yes.

Q. And you had at the time an infection in the throat?—A. Yes.

Q. You were very anxious to leave the hospital after a while?—A. Yes.

Q. And you were then under the care of both Dr. Bell and Dr. Ritchie at St. Luke's Hospital?—A. Yes.

Q. And Dr. Ritchie advised you not to leave the hospital?—A. Yes. 20

Q. And, notwithstanding that advice, you particularly wanted to go, and were allowed to go?—A. Yes. Dr. Bell said I could go, there was no reason why I should not.

Q. And when you left the hospital the small sinus in the centre of your neck had not quite healed—the little wound in the centre?—A. It had not healed.

Q. There is no question that this tube had been put in on the right-hand side of your neck?—A. Yes, it was put in on the right.

Q. And it was not, according to you, in the same position as where the discharge subsequently appeared?—A. No. 30

Q. That is definite?—A. Yes.

Q. The discharge was in the centre of the neck?—A. Yes.

Q. And the tube you say was about an inch or an inch and a half on the right-hand side of that?—A. Yes, just on to the side.

Q. And your allegation is that the tube came through 18 months afterwards your left tonsil?—A. Yes.

Q. Actually through the tonsil?—A. Yes.

Q. The tube that you saw in Dr. Bell's fingers you say was black?—A. Yes.

Q. It was definitely not red?—A. Oh, it was not red. 40

Q. Definitely?—A. Yes.

Q. It was either very dark grey or black?—A. It was not black; it was darkish grey.

Q. You have previously described it as black?—A. Yes, well, black or grey.

Q. The object which you say you saw on the 5th October was of a different size tubing to what you had seen in Dr. Bell's hands?—A. Yes.

Q. And it was, you say, dark grey?—A. No.

His HONOR: Do I understand that the piece which you say disappeared was a different size from the piece in his hand?—A. Yes, but it would not be under ordinary circumstances. It was soft and swollen. 50

Q. Whatever the explanation is, you say it was different—the piece which you found was a different size from the piece which you saw in Dr. Bell's hand when he said "Damn" ?—A. Yes.

Mr. REIMER: And the piece that you say you saw was two inches long ?—A. Yes.

Q. It had a straight cut on one side ?—A. On one end.

Q. On one side ?—A. Yes, on the side.

Q. A straight cut along one side ?—A. Yes.

10 Q. The cut was about three-quarters of the length of the piece you saw ?—A. Yes.

Q. And the portion that was uncut along the side would be about half an inch ?—A. Well, about.

Q. In the centre was a piece of what you described as marine sponge ?—A. Yes.

Q. You mentioned swab yesterday ; that was the first time you ever used the word "swab" ?—A. I do not remember.

Q. You have always referred to it before as a piece of marine sponge ?—A. No, not always.

20 Q. You described it as a piece of marine sponge with holes in it ; do you remember that ?—A. Yes, but I—

Q. Did you describe it as a piece of marine sponge with holes in it like a sponge ?—A. Yes.

Q. What you saw was also a dark grey—it was definitely not red ?—A. It was a lightish grey.

Q. You remember at a previous hearing in accordance with your directions a model was made of the tube by myself ?—A. Yes.

Q. And in this piece of tubing that you say you saw were two pieces of wire ?—A. Yes.

30 Q. One was about an inch or an inch and a quarter long, the other slightly shorter ?—A. Yes.

Q. Is that the object (produced) that was made at a previous hearing, according to your directions ?—A. Well, it is very like it.

Q. You can assume it has come from the Court's possession. That was made according to your directions ?—A. Yes.

Q. And you say that is a fair representation of the object which you saw on the 5th October ?—A. Yes.

(Object referred to, m.f.i. 2.)

40 Q. You said that the things you saw sticking out were wires, and in answer to a further question by Mr. Hardwick you said they looked like wire ?—A. I have always said they looked like wire.

Q. And you said yesterday that you pressed them down and they flipped back ?—A. Yes.

Q. That is the first occasion you have ever mentioned that ?—A. No, I have said that before.

Q. When they flipped back you were satisfied that they were wire ?—A. No.

Q. You thought they were wire and always have thought they were wire ?—A. No, that is the nearest I could get to it. I do not know what it was really.

50 Q. Do you remember my showing you on a previous occasion a number of samples of rubber tubing ?—A. Yes.

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Q. And you selected one as being the size, the diameter, of the tubing that you say you saw on the 5th October ?—A. The nearest to the size.

Q. And is that the piece (produced) that you chose before ?—A. Yes, that is the nearest size. It was not strong rubber like that.

Q. Not when you saw it on the 5th October ?—A. No.

(Piece of rubber referred to, m.f.i. 3.)

Q. You say what you saw on the 5th October was not strong rubber. Did you try to break it ?—A. No.

Q. Did it in any sense break while you had it in your hand ?—A. No.

Q. When you were in Quirindi Hospital during May and the early 10 part of June 1938, you say you felt something in your neck when you had a bit of bleeding—when you turned your head you felt something in your neck ?—A. Yes.

Q. That was on the left-hand side of the neck ?—A. Yes.

Q. And that was about a week after you had entered Quirindi Hospital ?—A. About 10 days, I suppose.

Q. A week or 10 days ?—A. Yes.

Q. That would be therefore somewhere in the early part of May ?—A. Yes.

Q. And you say that the thing you felt pricking in your neck was 20 about an inch above the scar on the left-hand side ?—A. Yes.

Q. And you have said on a previous occasion that you then felt the wires pricking in your neck ; is that right ?—A. No.

Q. Did you realise or think then that there was something sticking in your neck ?—A. Yes, I said something sticking in my neck.

Q. And you mentioned that to your husband ?—A. Yes.

Q. You mentioned it to members of the hospital staff ?—A. Yes.

Q. And to Dr. O'Hanlon ?—A. Yes.

Q. Do you remember the name of the member of the staff you mentioned it to ?—A. No. 30

Q. I suggest it was Sister Abberton ?—A. Not, it was not Sister Abberton. I did not know Sister Abberton then. I do not know Sister Abberton very well at all. She was there, but only a very short time while I was there.

Q. When this matter was mentioned to Dr. O'Hanlon or members of the staff they did nothing about it ?—A. Yes.

Q. Did they make any inquiry as to what this thing was that was sticking in your neck ?—A. No.

Q. Did they make any search in any way to find out what it was ?—A. Well, the doctor examined my neck. 40

Q. You mean looked at it ?—A. Yes.

Q. Did he take you and X-ray you ?—A. No.

Q. Did he feel it ?—A. Yes.

Q. And in feeling it, did he press it ?—A. Not very hard ; he just touched it.

Q. When he pressed it could you feel anything sticking in your neck ?—A. No, but it hurt.

Q. Whereabouts on the neck do you say he pressed ?—A. He pressed all round.

His HONOR : You indicate with your hand that he touched all 50 round. At the time he did that did you have that feeling of something pricking in the neck ?—A. No.

Q. That had gone?—A. Yes I turned my head round quickly and it was then that I felt the stinging in my neck.

Q. Did you tell Dr. O'Hanlon that when you turned you felt it?—A. Yes.

Q. Did he get you to turn to test it?—A. I do not remember, but I suppose he did.

Mr. REIMER: And when Dr. O'Hanlon felt your neck he could not see apparently inside any foreign object there?—A. Well, he did not say.

Q. Did you suggest there was a foreign object there?—A. No.

10 Q. You mentioned yesterday that you occasionally used a hand mirror—had a mirror in the hospital?—A. Yes.

Q. Did you look at your face and your neck in the mirror?—A. I only remember doing it on one occasion.

Q. Did you ever notice yourself whether or not there was a bulge, a foreign object, inside your neck?—A. Yes, there was a bulge there.

Q. You mean a swelling?—A. The swelling.

Q. And that is the general swelling that you have given evidence of before?—A. No. The bulge that I had at that stage was only very small.

20 Q. You have given evidence before that throughout the period from the time of the operation at St. Luke's Hospital in 1938 until October 1939, you were constantly swollen in the neck?—A. Yes.

Q. Is that the swelling that you are referring to?—A. Yes.

Q. Did you ever notice any particular lump which would indicate the presence of a foreign body?—A. No. My neck was all swollen on the side. I could not detect one spot.

Q. Not only on the occasion you have mentioned in Quirindi Hospital, but after you left Quirindi Hospital, you frequently told people, according to yourself, that you felt something in your neck—you told your husband?—A. Yes.

30 Q. And you told your husband that you felt something pricking in your neck?—A. Yes.

Q. Did you tell Dr. O'Hanlon?—A. Yes, I must have.

Q. Dr. O'Hanlon used to attend you at that stage daily?—A. Yes.

Q. And you mentioned that to Dr. O'Hanlon and he did not do anything about it?—A. I only mentioned it to Dr. O'Hanlon after I had the pricking in my neck.

Q. Did you mention it at your home?—A. Yes, I had mentioned it.

Q. And has he ever done anything about it?—A. Well, there was nothing done about it.

40 Q. You thought yourself that what you felt in your neck was something hard?—A. No, I did not know what it was.

Q. Did you think it was something hard?—A. No, I did not.

Q. In answer to Mr. Hardwick is this the evidence which you gave:

“Q. Did you notice any similar sensation in your neck?—

A. Yes, that occasion I could feel something in my neck. I thought it was a sinew or something. It was on the left side of my neck. I noticed it a good many times.”

Then, in answer to a further question, you say your impression was that it was on the left side. Then Mr. Hardwick asked you: “Is that where you
50 felt this what you thought was something hard?” and you said “Yes.”
Do you admit you gave that evidence?—A. Yes.

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Q. Is that correct?—A. Yes.

Q. You realise, of course, that the allegation you are making against Dr. Bell is a very serious allegation?—A. In a way, I suppose it is.

Q. You know that Dr. Bell is a very eminent surgeon?—A. I know he is a surgeon.

His HONOR: You won't subscribe to the other part?—A. No, I will not.

Q. You only think that in a way it is serious?—A. Yes, it is serious.

Mr. REIMER: You realise it implies that someone is trying to do away with you?—A. I did not suggest it. 10

Q. Would that be a serious suggestion?—A. Yes.

Q. Have you suggested that your food was being tampered with?—A. I have suggested it.

Q. You suggested that in the early part of 1940, or was it 1941? Do you suggest it was 1941 or 1940?—A. 1940, I think.

Q. At that time you had completely recovered from any of your previous illnesses?—A. Yes.

Q. The only persons living in the house in Quirindi were yourself and your husband?—A. Yes.

Q. You alleged or suggested that somebody had put poison in your food?—A. No, not poison. 20

Q. Are you serious?—A. Yes.

His HONOR: Something?—A. Something in my food.

Mr. REIMER: Did you not admit to me on a previous occasion that you realised that your allegation was tantamount to an allegation that somebody was trying to murder you?—A. No.

Q. I asked you: "You are not in any way influenced by something that you are merely imagining?" and your answer was: "No." Then I asked you: "Why did you charge your husband with attempting to poison you?" and your answer was: "I did not." I then asked: 30

"Q. Did not you say that he tampered with your food?—

A. No.

Q. Did you ever suggest that somebody had tampered with your food?—A. Yes.

Q. Did you mean by that poisoned it?—A. Yes."

Do you admit that is the evidence you gave?—A. Well, I could not say poison. I do not know what it was.

Q. Do you admit that that is the evidence you gave?—A. Yes, but that is not what I meant.

Q. Is it correct?—A. Yes. 40

Q. "Q. Do you realise that implies that someone is trying to do away with you, murder you?—A. I suppose so." Do you remember saying that?—A. I do not remember.

(Mr. Hardwick agrees that that question was put and that answer was given.)

His HONOR: Having heard that question and the answer given by you, is there any mistake about that?—A. I did not say that anyone was trying to murder me.

Q. You heard the answer you gave ?—A. Yes.

Q. Does not that mean you were suggesting that someone was trying to murder you ?—A. Well, I suppose it does.

Mr. REIMER : Have you any doubt about it ?—A. All I know is the milk was tampered with. I do not know what it was.

Q. You suggested, in answer to questions by me, that it might be the neighbours and it might be tradespeople ?—A. No, I did not accuse the neighbours or the tradespeople.

10 Q. There was nobody in the house except your husband at the time ?
—A. No.

Q. You believed that suggestion at the time you made it—you honestly believed it ?—A. I hardly understand.

His HONOR : Mr. Reimer has put to you that you suggested somebody must have been trying to do away with you, and did you honestly believe it. You agreed with the question put by Mr. Reimer ?
—A. Yes, I suppose I did.

Mr. REIMER : Do you remember my asking you this question :
“ I suppose you were quite serious at the time and you honestly believed this matter that was being brought forward ? ” and your answer was :
20 “ Yes.” “ Q. You still believe it now ?—A. Yes.” Do you remember giving that evidence ?—A. Yes.

Q. Is that true ?—A. Yes.

Q. Do you still believe to this day that somebody was tampering with your food, poisoning it ?—A. Yes.

Q. You did not mention it to the police ?—A. No.

Q. Or take any steps to try and get protection from anybody ?—
A. No.

Q. You mentioned that your husband is in the habit, or was at one stage in the habit, of assaulting you ?—A. No.

30 Q. Did you ever say your husband assaulted you ?—A. No.

(Form of previous question objected to.)

Q. Has your husband assaulted you ?—A. Yes.

Q. And did you say that your husband had assaulted you on a number of occasions and hit you hard ?—A. He has hit me.

Q. That is correct ?—A. Yes, that is correct.

Q. You mentioned that the treatment you obtained at St. Luke's Hospital in 1939 was very cruel treatment ?—A. Yes.

Q. That they refused to allow you to have any water to drink for a long time ?—A. Not for a long time.

40 Q. For quite a time ?—A. For a time.

Q. And when you asked for water they only brought to you water with something in it ?—A. Yes, some treatment.

Q. Which you thought was chloride ?—A. Yes—well, that was the nearest.

Q. That is the nearest you could make out ?—A. Yes.

Q. And you described the treatment you got in that regard as very cruel ?—A. Yes, it was a cruel treatment.

Q. You also mentioned that the only food you had at St. Luke's Hospital in 1939 was milk and soaked biscuits ?—A. Yes.

50 Q. And you criticise the hospital for having treated you in that way ?
—A. No.

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Q. You are not suggesting anything improper against the hospital staff in putting something in your water?—A. No, I considered it was the treatment.

Q. You also mentioned that in Quirindi Hospital in 1938 you got very cruel treatment there?—A. No, I do not remember that.

Q. Do you remember that you said you had nothing to eat except blue sago for four weeks in Quirindi Hospital?—A. Yes. I did not say it was cruel treatment. You asked me why I was losing weight.

Q. You say that is a suggestion on your part that in Quirindi Hospital you had nothing else to eat for four weeks but blue sago; is not that what 10 you said on a previous occasion?—A. No. You asked the question why was I losing weight and insisted on my answer.

Q. And you said: "No, I only got blue sago for four weeks"?—A. No, I did not. I said I could not eat the blue sago.

Q. Do you remember my asking you were you losing weight in Quirindi Hospital?—A. Yes.

Q. I asked you: "From that time onwards till you were sent to Sydney in February 1938 your condition gradually grew worse and worse?" and your answer was: "After being in hospital for four weeks and nothing to eat, naturally I lost weight." Then you said you had practically 20 nothing to eat. I asked you why and your answer was: "I could not eat the blue sago. That is the truth." Do you remember that?—A. Yes.

Q. I asked you "Is that the only thing they gave you in the hospital?" and your answer was: "Very little else"?—A. I could eat very little else.

Q. That is the evidence you gave?—A. Yes.

Q. In October 1939 in St. Luke's Hospital do you remember Dr. Bell coming and seeing you and your having a conversation with him about Dr. Marsh?—A. No.

Q. Did you on a previous occasion give evidence that Dr. Bell said: "Now that the wall of pus has gone I will get Dr. Marsh"?—A. Yes. 30

Q. Is that correct?—A. Yes.

Q. You charged Dr. Bell with deliberately getting Dr. Marsh to examine you after the wall of pus had gone?—A. Yes.

Q. Dr. Marsh as you previously admitted is a throat specialist?—A. Yes.

Q. And your allegation is that in St. Luke's Hospital they gave you this cruel treatment under the direction of Dr. Bell for the purpose of removing the pus?—A. Yes.

Q. Your description of these spasms that you had is that your hands 40 were drawn round tight and your finger nails cut into the flesh of your hands?—A. Yes, at the later stages.

Q. That your legs were drawn up very much—your knees used to come to your chin?—A. Come up towards my chin.

Q. Have you not said over and over again that your knees were up to your chin and you were a tight little ball?—A. No.

Q. You had a curved back?—A. My back would naturally be round.

Q. You also complained or suggested that your tongue was drawn in a lump?—A. Yes. 50

Q. And your veins were swollen?—A. Yes.

Q. And you had the pulling back of the eyes?—A. Yes.

- Q. And you described how you got a mirror and saw this spasm as you called it in one eye?—A. Yes.
- Q. You actually saw the one eye moving back, watching it with the other?—A. Yes.
- Q. You did not have a double vision—you did not see two wards, two nurses, and so on?—A. No, I had the spasm in the left side of the face only; the right side was quite all right.
- Q. You could see with your right eye quite all right?—A. Yes.
- Q. You did not have double vision?—A. No.
- 10 Q. And you saw your left eye come back?—A. No, I did not see it come back. I saw that my left eye was turned back.
- Q. At no time did you have double vision?—A. I do not remember having double vision.
- Q. When you had these spasms both in Quirindi Hospital and afterwards at home, you received massage?—A. Yes.
- Q. Massage at the hands of the staff and also in the home by your husband, your sister, and Sister Sly?—A. Yes.
- Q. The massage gave you relief?—A. Yes.
- 20 Q. And the people concerned used to massage you until the spasms disappeared?—A. Oh, well, I could not say that.
- Q. The more they massaged the less the spasm became, until it gradually went?—A. No, they massaged and it relieved the spasm.
- Q. Both your head and your neck were massaged from time to time?—A. No, I do not remember my head being massaged.
- Q. But your neck?—A. Yes, just slightly, but only when I was unconscious.
- Q. When you had these attacks from time to time you say you lost consciousness?—A. Yes.
- 30 Q. Did that frequently happen?—A. Yes.
- Q. In Quirindi Hospital you had practically daily intravenous injections of calcium?—A. Not every day—practically.
- Q. And also Dr. O'Haulon attended you?—A. Yes.
- Q. And also at a later date you had other treatment?—A. Yes.
- Q. And you had this treatment of paroidin right up to October 1939?—A. Yes.
- Q. And you had the treatment almost daily—very frequently?—A. Yes.
- Q. And you had spasms throughout that period?—A. Yes, but sometimes I would not have the treatment for a week or so.
- 40 Q. Sometimes you would have the treatment three or four times a day?—A. Oh, no.
- Q. You would have spasms three or four times a day?—A. Not until the last week.
- Q. Whenever you did have a spasm whoever was in the house would apply massage, if there was anybody in the house?—A. Well, as far as I know. I could not say for certain.
- Q. You will admit that your neck was massaged frequently both by your husband and others at home?—A. No, I would not say that. I could not stand my neck being touched.
- 50 Q. You told us on another occasion that your head and neck were massaged very frequently? Your answer was: "That is right." "And you got relief from this massage? Your answer was "Yes, I got relief from rubbing upwards." Is that the evidence you gave?—A. Yes.

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Q. And is that right?—A. The rubbing of my neck—well, I can hardly remember it, only on very rare occasions.

Q. I want to pass to your evidence with regard to the swelling. The sinus as it has been called, continued to discharge more or less all the time you were in St. Luke's Hospital?—A. Yes.

Q. Do you say it continued to discharge all the time you were in Quirindi Hospital?—A. Yes.

Q. It ceased discharging, finally healed up, towards the end of June?—A. Yes.

Q. During that period after you left St. Luke's Hospital, you had 10 recovered a number of stitches out of the sinus?—A. Yes.

Q. And you recovered them from time to time even after you had left Quirindi Hospital?—A. No.

Q. Sister Sly had?—A. She may have; I do not know, really.

Q. Those stitches came out of a little hole in the front from which the discharge was coming?—A. Yes.

Mr. REIMER: When you left St. Luke's Hospital in 1938, your neck was obviously swollen and inflamed?—A. It was swollen.

Q. And inflamed?—A. Well, yes.

Q. And in Quirindi Hospital the condition was the same—it was still 20 swollen and inflamed?—A. Yes.

Q. And was in that condition also when you were allowed to leave Quirindi Hospital?—A. Yes.

Q. According to you, you allege that throughout this period from the time you left St. Luke's Hospital until you got back to your home in June, your neck was swollen?—A. Yes.

Q. And when the sinus cleared up at the end of June, your neck became more swollen?—A. Yes.

Q. And you allege that the swelling became very extensive?—A. At 30 times.

Q. You said that your head and shoulders were all one piece?—A. I do not remember putting it that way.

Q. Did you say the swelling was so bad you were like a hunchback?—A. I said I had a lump on my back. That would be more or less like a hunchback.

Q. That was swelling that extended down from your neck?—A. Yes.

Q. According to you, it was down both sides of your neck, down your chest, and down your arm?—A. Yes.

Q. Do you remember saying that your head and shoulders were all sort of glued?—A. No, I do not remember using that expression. 40

Q. I will just read you what you said from the top of page 86 on the last occasion: "I gradually grew worse . . . head and shoulders were sort of glued"?—A. I do not remember using the word "glued."

Q. But is the description contained in that evidence correct?—A. Yes.

Q. You say that that was the condition you were in?—A. Yes.

Q. Did anybody ever see you in this condition?—A. Yes.

Q. Do you suggest Dr. O'Hanlon did?—A. Well, he saw me.

His HONOR: It would be pretty obvious would it?—A. Yes.

Mr. REIMER: And, as a matter of fact, you were unable to get about 50 even in the house very much because of this swelling?—A. No.

Q. You did not leave the house?—A. I did not leave the house, certainly.

Q. And you say you had difficulty in walking about the house?—A. At times I did.

Q. And during the last three months prior to 2nd October, this condition became worse and worse?—A. Yes.

Q. Would it be fair to say that from June 1938 to say, June 1939, your head and neck were more or less constantly swollen?—A. Yes.

10 Q. And from June 1939 to October 1939 the condition got worse and worse—that is what you say?—A. Yes.

Q. And, as a matter of fact, even in June 1938 you say you were unable to turn your head sideways?—A. Yes.

Q. And that condition of affairs lasted right through to the following October?—A. Yes.

Q. So that, as a result of your swollen condition, you say you had to turn your whole body round every time you wanted to turn round?—A. Yes, every time I turned to the left.

Q. You could not move your head to the left unless you turned your body, you had to move your whole body round?—A. Yes.

20 Q. That condition persisted from June 1938 to October 1939?—A. Yes.

Q. And you say Dr. O'Hanlon obviously would have noticed it?—A. I suppose he would, I do not know.

Q. Did you ever mention it to him?—A. I had constantly mentioned it, but I do not say just on that subject.

Q. As a matter of fact you say that that condition of your neck and swelling, inability to turn your head, lasted for months after you had been in St. Luke's in 1939?—A. Yes.

30 Q. So that it was evident when you were in St. Luke's, when Dr. Marsh saw you?—A. I do not know.

Q. Your inability to move your head sideways was there; you had that disability when you were in St. Luke's in 1939?—A. I do not remember. It was some time after 1939.

Q. Is it correct that for months after you left St. Luke's in 1939 you were still unable to move your head to the left?—A. I could move it, but I was always very careful, and it was a long while before I got out of the habit of turning the body to the left.

Q. You have said before it was months after St. Luke's before you could turn your head?—A. I meant before I got out of the habit.

40 Q. By reason of the swollen condition you say you were in, you were unable to swallow properly?—A. Yes.

Q. You said that you had difficulty in swallowing because of the swollen condition of your neck?—A. Yes.

Q. And that existed from June 1938 right through to October 1939?—A. No, only in the last few weeks.

Q. Is it a fact that after June 1938 you were unable to eat soft food?—A. Yes.

Q. And that was because of your inability to swallow?—A. Yes.

50 Q. And for the last three months before October 1939 the only food you had was arrowroot and bovril?—A. That was the main food.

Q. Substantially that was the only food you had?—A. That was the main food, there were other foods.

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Q. That is what you said on a previous occasion?—A. I meant it was the main food.

Q. Do you suggest now that you had any other food?—A. Other light food.

Q. Of a similar description?—A. Yes.

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Q. And you also only ate food of that description right up to the time you went into St. Luke's Hospital in 1939, according to your evidence?—A. Yes.

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Q. You have told us something about pus in your mouth. You said that you had pus in your mouth for three months before 2nd October? 10

—A. Yes, round about three months.

Q. And you did not know where it was coming from?—A. No.

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tion,
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Q. You did not call Dr. O'Hanlon in?—A. I do not remember. I do not think I did.

Q. Dr. O'Hanlon saw you up to some date in October 1938?—A. Yes, I do not remember the dates.

Q. And then he saw you once on 1st February 1939; do you remember that?—A. Yes.

Q. And once on 19th September 1939?—A. Yes.

Q. And then he was called in the day after you say you saw this 20 object in the pan on the night of 6th October?—A. Yes.

Q. Those are the only three occasions you saw Dr. O'Hanlon for 12 months prior to this incident?—A. No, I think I saw him more than that.

Q. Did you call him in at any time in relation to the pus that was in your mouth?—A. Yes, after the drain left my throat.

Q. Did you call him in about the pus prior to 6th October?—A. Not that I remember.

Q. For those three months you used to scrape pus off your tongue with a toothbrush?—A. No, not for the three months. 30

Q. For how long?—A. After Dr. O'Hanlon saw me.

Q. It was only after?—A. Yes.

Q. But during that period, according to you, do you say you used to spit out pus in large quantities prior to this incident?—A. Yes, it was constantly in my mouth, the taste of pus.

Q. And you used to spit it out in quantities?—A. No.

Q. Do you remember this evidence: "subsequently to 1st October 1939, some three months or so before 2nd October, you had this swelling, which became terrible as you describe, much worse, you had pus, you were spitting it out from your mouth for a period of about three months." 40 That was the question, and your answer was: "It would be round about three months." Do you remember saying that?—A. Yes.

Q. Is that correct?—A. Yes, but I was not spitting the pus out the whole of the three months. I could taste it.

Q. And then the next questions and answers were:

"Q. You used to scrape it off your tongue with the brush in the later stages?—A. Yes.

Q. Before 2nd October?—A. Yes.

Q. And you used to gargle and spit it out in quantities?—

A. Yes." 50

Do you admit that you gave that evidence?—A. Yes.

Q. Is it correct?—A. Yes, I used to scrape my tongue after the drain left my throat.

Q. And throughout that period you never sent for Dr. O'Hanlon in connection with that condition?—A. Yes.

Q. When—prior to 2nd October?—A. No, but afterwards.

Q. Throughout that period prior to 2nd October you never sent for Dr. O'Hanlon?—A. Yes, he was there prior to October.

10 Q. Throughout this period, during 1939, prior to October you had these constant spasms and the swollen condition, and you have said you were so bad you could not write?—A. At times I could not write.

Q. And if you did try and write a letter, it would take you sometimes days to write the letter?—A. Yes, I have been days writing a letter.

Q. You would write a word or two and then have to stop?—A. Yes, my hands would cramp and I could not write any more perhaps for that day or the next.

Q. You did write to Dr. Bell about May 1939?—A. Yes.

Q. And you said not one word in that letter about the swelling?—A. I do not remember.

20 Q. Did you say one word about having felt any foreign object or thing pricking in your throat?—A. No.

Q. Did you say one word about this pus, or inability to swallow, or any of the things I have mentioned?—A. No.

Q. About the same time you wrote a letter to Dr. Ritchie?—A. I did.

Q. Is that the letter you wrote to Dr. Ritchie of 6th May 1939 (handed to Witness)?—A. Yes.

(Letter referred to tendered and added to Exhibit B.)

Q. And do you say you were in the condition you describe when you wrote that letter?—A. No.

30 Q. Can you give me any reason why you did not mention any of those matters in the letters to either Dr. Bell or to Dr. Ritchie, the matters you have mentioned there?—A. Dr. O'Hanlon was telling Dr. Bell and Dr. Ritchie all that was necessary to tell them.

Q. But you see, Dr. O'Hanlon was not attending you at that time. He had seen you on 2nd February for the first time since the previous October?—A. He used to ask my husband regularly.

Q. And that is your explanation for not having mentioned this serious condition to Dr. Bell or to Dr. Ritchie?—A. I did not have a serious condition then.

40 Q. You thought you were going to die?—A. That was later, during the last three months.

Q. But you never even called Dr. O'Hanlon?—A. Dr. O'Hanlon was there.

Q. During the last three months did you call Dr. O'Hanlon in and tell him you thought you were going to die?—A. Dr. O'Hanlon came in some time in September.

Q. Yes, on the 19th September. Are you prepared to admit he prescribed an A.P.C. powder?—A. For the pain in the neck.

Q. You say in your neck?—A. Yes.

50 Q. When Dr. O'Hanlon saw you, do you suggest you were in this swollen condition with pus in your mouth?—A. I had the taste of pus in my mouth then.

*In the
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*Plaintiff's
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No. 4.
Third Trial.

Stella
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tion,
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tion,
continued.

Q. Did you tell Dr. O'Hanlon?—A. I was not well enough to tell Dr. O'Hanlon very much about it.

Q. According to you, it was perfectly obvious to anybody you were in a serious condition?—A. It should be to a doctor.

Q. And the doctor did nothing about it?—A. Not very much.

Q. Just prescribed these A.P.C. powders and left you?—A. Yes.

Q. And he did not call again until he was called in on the night of the 6th October?—A. I do not remember.

Q. And during all those months prior to 6th October, you say you were so seriously ill you thought you were dying?—A. Yes. 10

Q. There is another doctor in the town—Dr. Cooper?—A. Yes.

Q. And he was not called either?—A. No.

Q. As a matter of fact, at no time either in 1938 or 1939 did Dr. O'Hanlon give you any treatment for your alleged swelling and the condition in your neck?—A. He told me to put hot packs on it, if you call that treatment.

Q. When?—A. On occasions when I complained about my neck.

Q. In 1938 or 1939?—A. 1939, I suppose.

Q. I want to come to 2nd October. You say that when this incident occurred you were choking and coughing?—A. Yes. 20

Q. You could not open your mouth?—A. No, my jaws were set.

Q. Your husband forced a little water with a teaspoon between your teeth?—A. Yes.

Q. And you felt something burst into your mouth?—A. Yes.

Q. You said you felt it on your tongue?—A. I felt something. My mouth was full.

Q. And as you describe, you could not spit it out with the pus at all?—A. I could not spit it out because my jaws were set.

Q. And you said your mouth was full of pus?—A. Yes, there was pus in my mouth. 30

Q. For the two days prior to this occurrence you had been drawn up in a ball, constantly in a spasm?—A. Yes.

Q. You had been in bed several weeks?—A. Yes, I was in bed.

Q. Your limbs had not been straight for two days or more?—A. No.

Q. There were continuous spasms involving your arms and legs with your knees drawn towards your chin?—A. Yes.

Q. You lost consciousness several times—you were in and out of consciousness?—A. Yes.

Q. You occupied the same bedroom as your husband at the time?—A. Yes, and no. 40

Q. Did your husband occupy the same bed during these particular nights, round about 2nd to 5th October?—A. I do not remember. He may have.

Q. At all events, you thought you were dying?—A. Yes.

Q. You did not call in Dr. O'Hanlon?—A. No.

Q. You had nobody in the house except your husband at that time?—A. No.

Q. Your husband was working at his work during the daytime?—A. Yes. 50

Q. Your daughter was at boarding school and you were in the house by yourself?—A. Yes.

Q. You had been unable to move your jaw for quite a time and according to you, the jaw had been set for quite a time and there was inability to open and shut your mouth?—A. I could not open my mouth wide for a long time.

Q. As a matter of fact, the worst spasm you ever had was a spasm which lasted two days up to 2nd October?—A. Yes.

Q. You told us before you had no actual recollection of your husband forcing water down your mouth at all?—A. My husband told me he had, and I have a slight recollection of it.

10 Q. You are not very clear on it?—A. No, but I have a recollection.

Q. You are definite that you are aware you had something in your mouth?—A. Yes.

Q. You are definite that you had pus in your mouth?—A. Yes.

Q. You did not mention this occurrence or the fact that you had something in your mouth you thought you had swallowed to your husband until the small hours of the following morning?—A. I was unable to tell my husband immediately. Sometimes I did not speak for days.

Q. Never mind about sometimes. On this particular day you say you were unable to speak until the small hours of the following morning?

20 —A. I do not know when it was, but I was unable to speak for some time afterwards.

Q. Do you remember telling us on the previous occasion you told your husband, presumably in bed, after midnight, in the small hours of the 3rd?—A. It was somewhere about then, I suppose.

Q. All this time when you were unable to speak, your husband took no steps to call in Dr. O'Hanlon or the other doctor?—A. No.

Q. Between 2nd and 5th October you told your husband you felt something pricking in your stomach?—A. Yes.

30 this scratching and sticking inside your stomach?—A. Yes.

Q. On the Wednesday your husband gave you some paraffin oil?—A. Yes.

Q. And he asked you afterwards whether there had been any result?—A. I do not remember.

Q. He later gave you some Kruschen salts, or it may be in the reverse order—he gave you salts and Kruschen?—A. Yes.

Q. And later he gave you castor oil?—A. Yes.

Q. During this period had you told your husband not to call in Dr. O'Hanlon?—A. I do not remember saying anything about the doctor.

40 Q. But you may have told him that?—A. I do not remember.

Q. When you took these aperients, you expected something to appear?—A. Not altogether.

Q. Is that not the reason why you took the aperients?—A. Yes, but I did not know what it was, what to expect.

Q. No, is the reason why you took the aperients because you expected something to appear?—A. I took the aperient because I had something sticking in my stomach.

Q. And you expected it to appear?—A. No.

50 Q. Do you remember me asking you this question on page 118: "You did anticipate the possibility of something appearing," and you answered "Yes"?—A. Yes.

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Q. "And that is the reason according to you, why you were taking these aperients," and you answered "Yes, to rid myself of the trouble." You admit that that is the evidence you gave?—A. Yes, but I did not know what the trouble would be.

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Q. You did not tell us anything yesterday about this thing pricking in your stomach?—A. Yes, I think I did.

Q. There is a great deal of what you have told me that you never mentioned yesterday?—A.——

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Mr. HARDWICK : Perhaps I might take some of the blame for that, since we are trying to shorten the case. 10

Mr. REIMER : The lavatory convenience at your home is on the side verandah?—A. Yes.

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tion,
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Q. Do you remember these photographs I showed you of your home from different angles, setting out the position of the convenience? (Photographs admitted m.f.i. 4.)

Q. The door of this convenience goes inwards and leans against the wall towards the back steps on the back verandah?—A. Yes.

Q. The cistern is immediately opposite as you enter the door?—A. Yes.

Q. And the handle of the cistern is on the right-hand end of the cistern hanging straight down?—A. Well, yes. 20

Q. You stated on the previous occasion that the handle hung straight over the w.c.?—A. When I pulled it with my left hand it came straight over.

Q. On p. 97 do you remember His Honor, the trial Judge, asking you this question: "And you tried to put your fingers in the ring after?" and you answered: "Yes. I could not stand up straight or erect, I was leaning against the wall there." Then you were asked: "And did you pull it towards you, the chain?" and you replied: "No, I pulled it straight down"?—A. Yes, when I pulled it, it came straight down like that 30 (indicating).

Q. Do you remember His Honor then asking you: "Does it hang over the pan?" and did you answer: "It hangs straight over the pan, straight over the top of the pan. The seat of the pan was turned back at the time." Is that the evidence you gave?—A. Yes.

Q. Is that correct or not?—A. Yes.

Q. Though you admit now that the chain actually hangs on the right-hand end of the cistern?—A. I was not asked where the chain was attached to the cistern.

Q. It is quite clear that on a previous occasion you said that this chain hangs straight over the cistern?—A. I did not mean that. 40

Q. You admit you gave the evidence I have just read?—A. Yes, but I meant, when I pulled the chain it came straight over the cistern.

Q. And when you went into the lavatory, you leant against the open door with the left side of your body?—A. Yes.

Q. You were then holding the pan in your right hand?—A. Yes.

Q. And, as you allege, you were holding this object in your left hand?—A. Yes.

Q. On the 6th October, according to your account, the position is that you got out of bed, you picked up this pan, and went out towards the w.c. on the side verandah?—A. Yes. 50

Q. You say you had difficulty in walking; you had to hold on to the walls as you went along?—A. Yes.

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Q. You then saw this object in the pan, and you put the pan on the floor on the verandah outside the w.c. ?—A. Yes.

Q. You then picked the object out with your right hand and examined it ?—A. Yes.

Q. You squeezed it and saw pus come out ?—A. Yes.

Q. And you say you had a good view of the object and it enabled you to give the description you have ?—A. I had a look at it, but not a good one.

Q. Sufficient to give us the description you have given us ?—A. Yes.

10 Q. And then you heard steps and immediately took the object in your left hand ?—A. I had it in the left hand.

Q. You then picked up the pan, went into the lavatory and emptied the pan, and you were leaning against the door with the left part of your body ?—A. Yes.

Q. According to your account, you then leant over with your left hand and got the chain and pulled it ?—A. Yes.

Q. You then went out of the lavatory ?—A. Yes.

Q. When you picked up the pan off the floor it was because you heard steps coming up the back ?—A. Yes.

20 Q. There are some 10 or 11 steps at the back of your home ?—A. Yes.

Q. You thought it might have been tradespeople and that is why you picked up the pan and went into the lavatory ?—A. Yes.

Q. And when you came out of the lavatory your husband was stepping on the top step ?—A. When the steps went into the kitchen, I decided it was my husband.

Q. That was in the time taken by you to pick up the pan and empty it which it took your husband, or whoever it was, to get up those few steps on to the verandah ?—A. I do not remember.

30 Q. When you got this object and picked it up in your hand, you then realised, according to the evidence you had given, that it was what you had swallowed on the previous Monday ?—A. No, not altogether.

Q. Do you remember this question on p. 121 : " When you saw this object, you realised it was what you say you had swallowed. When you saw it you realised it was what you had swallowed ? " and you answered : " I realised it must have been what I swallowed. " Is that right ?—A. Yes.

40 Q. Then : " You realised it was what you had been looking for ? " and you answered : " I thought it was what I had been looking for " ?—A. Yes.

Q. Is that right ?—A. Yes.

Q. " And you thought at the time that it had come or must have come from the site of the operation ? " You answered : " Yes. " Is that right ?—A. Yes.

Q. And you realised then, according to you, that somebody had been guilty of leaving this tube in your throat ?—A. No, I did not realise that immediately.

Q. You never called Dr. O'Hanlon in then ?—A. No, I was too ill to think about anything.

50 Q. And you called Dr. O'Hanlon in on the night of the following day, the night of the 6th ?—A. Yes.

Q. And you say your condition was such that he could not examine your throat ?—A. No, he could not see my throat.

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tion,
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Q. It was so swollen ?—A. I could not open my mouth.

Q. He took you to the hospital the next day and X-rayed you ?—

A. Yes.

Q. Did he examine you then ?—A. I was very ill. I could not tell you exactly what the doctor did.

Q. And then between 7th and 26th October Dr. O'Hanlon was not called in again ?—A. No, but Dr. Cooper was.

Q. Dr. Cooper came on one occasion ?—A. No, he was there on more than one occasion.

Q. Dr. O'Hanlon was only called once between 7th and 26th October 10
—you know that ?—A. Yes.

Q. And he could not come because of some private matter ?—A. Yes.

Q. And he sent Dr. Cooper in his place ?—A. Yes.

Q. And throughout that period, between 7th and 26th October, according to you, this condition that you described continued ?—A. Yes.

Q. At St. Luke's in 1939 you say that Dr. Ritchie never examined you ?—A. He did not.

Q. You will admit that you or your husband paid him the fee for his attendance at St. Luke's in 1939 ?—A. No.

Q. And when you were examined by Dr. Marsh, the only thing 20
Dr. Marsh told you was you had a slight infection in the left tonsil?—
A. Yes.

Q. That is the only thing he said to you ?—A. Yes.

Q. And he prescribed certain treatment—paint and so on ?—A. Yes.

Q. And you say the swelling was still there when Dr. Marsh examined you ?—A. Yes, but not so prominent.

Q. After you left St. Luke's you went and saw Dr. Bell at his surgery ?
—A. Some time afterwards.

Q. A fortnight or three weeks ?—A. I do not know when it was, but
some time after. 30

Q. Dr. Bell then did not examine your throat on that occasion, according to your evidence ?—A. I do not remember him examining it.

Q. Do you mean to say you do not remember whether he did or not ?
—A. I do not remember him looking at my throat.

Q. Neither in April 1940 when you went to his rooms did he examine the inside of your throat ?—A. No.

Q. So that after you left St. Luke's in 1939, Dr. Bell at no time looked inside your throat ?—A. I do not think he did.

Q. And you say he did not look in your throat when you were in St. Luke's in 1939 ?—A. Yes, he did. 40

Q. Regularly every day ?—A. Not every day.

Q. Only the once ?—A. I remember once. That was when he sent for Dr. Marsh to come.

Q. Did you say anything to Dr. Bell about this allegation while you were in St. Luke's ?—A. Dr. Bell would not talk about it, but he knew about it. Dr. O'Hanlon told him all about it.

Q. That sketch that you drew, you drew on 5th October ?—A. I do not know when I drew it.

Q. You drew it, at all events, on 5th or 6th October ?—A. Yes.

Q. And you drew that sketch so that your daughter could see what 50
caused your expected death ?—A. No, not that one.

Q. You drew another one for that purpose ?—A. That one was only drawn—I think it was that one—just for my husband to see.

Q. You drew another one for your daughter?—A. After he had given the one to Dr. O'Hanlon.

Q. And that was drawn for the purpose of enabling your daughter to see what caused your expected death?—A. Yes.

Q. When did you first think that a tube had been left in your throat?—A. I could not say just at the moment when I first thought of it.

Q. Well, the month?—A. It would be in October.

Q. When did you first think there was anything in your throat—before 5th October or after?—A. After—

10 Q. So until 5th October you had no idea at any time that there might be something in your neck?—A. No, I knew there was something the matter with my neck but I did not know what it was.

Q. When you saw Dr. O'Hanlon at any time, did you tell him that one of the nurses at St. Luke's removed the tube?—A. No, I did not.

Re-examined.

To Mr. HARDWICK: I was asked by Mr. Reimer with respect to certain things that I complained about, that somebody had been tampering with my food, and I told him that I thought it was 1941. Dr. O'Hanlon was my doctor in Quirindi all the time I have lived there, but I really did not have any doctor until this time. I told Dr. O'Hanlon these things I thought, but I did not tell anybody else. I had commenced my proceedings against Dr. Bell on 15th January 1941, some three months before I told these things to Dr. O'Hanlon.

(Witness retired.)

IN CAUSES.

Coram: MAXWELL, J., and a Jury of Four.

HOCKING V. BELL.

THIRD DAY—Friday, 11th December 1942.

PLAINTIFF:

30

Recalled:

Mr. REIMER: When you were examined-in-chief on the previous occasion, do you remember Mr. Hardwick asking you this question at page 10: "Up to the 26th, when you went down to St. Luke's, was pus coming out of the back of your mouth," and your answer was: "My throat was just a wall of pus at the back. I used to clean and scrape my tongue with a toothbrush and warm water." Do you remember giving that evidence?—A. Yes, that was before I went back to the hospital.

Q. No, up to the 26th?—A. I do not know the date I came down to the hospital.

40

Q. Following the same question, did you also say "Dr. Bell looked into my mouth, he did not have a little torch or a spatula." Do you remember that?—A. Yes.

Q. Is that correct?—A. Well, I do not remember doctor ever having any torch.

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Q. That is what you say there. He did not have a torch or spatula—any kind of instrument?—A. No.

Q. So that what you said on that occasion is correct?—A. Yes.

Q. Did you also say that when you were in St. Luke's Hospital your jaw was so tight you could not move it?—A. No, I could move it a little.

Q. Do you remember being asked: "When you were in St. Luke's Hospital did you still have this tight jaw," and your answer was "Yes"; is that correct?—A. Yes; it was still tight.

Q. Do you say that when you were in St. Luke's Hospital in 1939 you did not have pus in your mouth?—A. I could not say I did not. 10

Q. Have you not said on previous occasions you did have pus in your mouth at St. Luke's?—A. When I was in there some days.

Q. Did you not say you had pus in your mouth when Dr. Marsh examined you?—A. No.

Q. Do you remember being asked, at page 48, whether Dr. Marsh made a careful examination of your tonsils and the back of your throat, and you said "Yes"?—A. Yes.

Q. Did you not say there was pus exuding into your mouth then?—A. I could not say whether I did or not. I do not remember saying it.

Q. If it is in the transcript will you admit you did say it?—A. Yes. 20

Q. Are you prepared to admit you gave that evidence on a previous occasion?—A. I do not remember giving it, but I suppose I did.

Q. Is it correct or not?—A. I suppose there was.

Q. Did you have any evidence at the time to indicate there was pus in your mouth?—A. There had been right up until that morning.

Q. Did you not say you could taste it while you were in St. Luke's?—A. Yes, I had tasted it.

Q. The same as you had on previous occasions?—A. Yes, but whether it was on that morning or not I do not remember. It was while I was there. 30

Re-examined.

Re-examination.

Mr. HARDWICK: Were you asked, at page 134 of the transcript, of last August: "You still answer in the same way—there was no pus when Dr. Marsh examined you," and the answer was "I had a gargle just before Dr. Marsh came, so that there would be no pus in my mouth . . . and had my throat painted." Is that correct?—A. Yes.

(Witness retired.)

CASE IN REPLY:

PLAINTIFF:

Recalled:

40

Recalled.

To Mr. Hardwick: When I came back to St. Luke's Hospital in October 1939, I saw Dr. Ritchie, but he did not examine me through the mouth. On the first occasion he just came to the room, but on the next

occasion he came in and sat down on a chair and told me he did not want to hear anything. He just put his hand out towards me and said he did not want to hear anything and sat down. I did not hear him say anything further.

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Cross-examined.

Mr. REIMER: With regard to Dr. Ritchie's visit, you say he never at any time attempted to examine your throat?—A. No.

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Q. And you also say, and said before, that when he came into the room he refused to discuss the matter with you at all?—A. No.

10 Q. He just simply sat there, looked at you, and never said a word at all?—A. He put his hand up and sat down and said something to the nurse.

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His HONOR: After he put his hand out to indicate he did not want to hear anything and sat there, what did he do then?—A. He just sat down on the chair.

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tion.*

Q. Do you remember how long he sat there?—A. Only a second or two.

Mr. REIMER: And he said nothing to you at all, but just got up from the chair and walked out again?—A. After he finished speaking to
20 the nurse.

Q. He just simply sat there, held up his hand, looked at you, and, after a second or two, got up and walked out?—A. Yes.

His HONOR: Where was the chair he sat in?—A. Over near the door.

Q. Right alongside you?—A. No, a yard and a half away.

Q. After he said that, he did not say anything further or do anything?—A. I do not remember him saying anything, and he certainly did nothing.

Mr. REIMER: Do you remember that certain particulars were
30 supplied by your solicitors to Dr. Bell's solicitors relative to this action?
—A. I am aware of the fact.

Q. And are you prepared to admit that in your particulars you set out as part of your alleged claim an account of Dr. Ritchie for three guineas for attendance on you at St. Luke's, or in connection with the period you were at St. Luke's—

Mr. HARDWICK: I will agree if it is there, but I will not agree it was ever paid.

Q. Did you get an account from Dr. Ritchie?—A. I do not remember.

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(Witness retired.)

FOURTH TRIAL.

*In the
Supreme
Court of
New South
Wales.*

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN CAUSES

Coram : EDWARDS, J., and a Jury
of Four.

Tuesday, 30th November, 1943.

No. 5.

Opening
Address of
Mr. Shand,
K.C.,
30th
November
1943.

HOCKING V. BELL.

Mr. SHAND, K.C., and Mr. BRIAN CARSON, appeared for the Plaintiff.

Mr. CASSIDY, K.C., and Mr. REIMER, appeared for the Defendant.

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OPENING ADDRESS of Mr. Shand, K.C.

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Mr. SHAND : The Plaintiff is Mrs. Hocking, the wife of a gentleman whose occupation is that of assistant in a store at Quirindi. She is suing the Defendant, Dr. Bell, for compensation on account of the Defendant's negligence, the particular negligence being that in the course of an operation which he performed on the Plaintiff, for reward to him, of course, he left part of a rubber drainage tube in her neck. I will later describe where it was. The necessity for bringing this action was caused largely by a lack of some moral courage on the part of the Defendant. If he had admitted his mistake, then at a reasonably early stage steps could have been taken to rectify this mistake and the Plaintiff saved some 18 or 20 19 months of agony.

The story will be told you by the Plaintiff. You will realise that any plaintiff suing a doctor has a task ahead of her. The case will show you in a most clear way how difficult it is to secure evidence when you are opposed to a medical man, a member of the British Medical Association. Luckily in this case we have available to us the services of two brilliant medical men, one a Professor of the Sydney University, a man who has actually taught some of the doctors available to the Defendant. We have another gentleman of undoubted attainments, not a member of the B.M.A. for reasons as to which I invite cross-examination, reasons which do him 30 credit, who will be able to assist you.

Shortly the facts are these : in 1937 the Plaintiff was not in a good state of health. She was in Quirindi Hospital suffering from a trouble diagnosed as a thyroid toxicosis, trouble dealing with the thyroid gland. The thyroid gland becomes enlarged. The result is, there is an undue secretion from that gland affecting the individual in various ways. She then came to Sydney to get expert advice. She first of all saw Dr. Ritchie and was sent by him to the Defendant, a brother doctor, and a personal friend of Dr. Ritchie. On the next day she went into St. Luke's Hospital where Dr. Bell advised that an operation should be performed on the 40 thyroid gland.

On the 15th March the operation was performed. Some seven-eighths of the thyroid gland was removed. I will show you an illustration to demonstrate what the thyroid is like. I will tell you something of the purposes or effects of the thyroid or really the parathyroids. The thyroid is a gland in the neck. It goes around the windpipe, the trachea or windpipe. At the back of the thyroid gland there are little, further little

glands attached, parathyroids. Their purpose in the human body is to control the calcium content in the blood, calcium being a necessary ingredient. Calcium has a lot to do with the motor mechanism, the motor nerves of the body. It keeps them healthy. It is essential to anyone's good health that these little things "parathyroids," attached at the back of the thyroid gland, should be healthy and in working order. They are only little things like an orange pip. If one were to lose those parathyroids it follows that the body would be unable to make use of the calcium. It would not be secreted into the blood, with certain results
 10 which will be described. They are an essential part of the human make-up. If they are interfered with, if they are removed the person would die. Surgical care dictates that if there is to be an operation on the thyroid gland, then they should be left intact. There is another way in which they can be affected; if there is inflammation around them, pus and that kind of thing, the flow of blood to them is impeded and they do not work properly. If they do not work properly you get very marked effects, if they are taken away or impeded by inflammation and pus. The unfortunate being who is suffering gets what are termed rigid spasms. The arms contract, the legs contract, and various muscles and parts of the body
 20 contract, and sometimes one muscle is more affected than another. Rigid spasms occur. You get another indication of it, what is termed in technical language: Accoucheur's hand, a hand where the thumb goes over like that (indicating), and sometimes the fingers close down in a rigid spasm. In childbirth that is the form the hand takes. It is one of the indications, and there are others, of this lack of calcium in the blood which is caused by some injury or interference with these parathyroid glands.

The tube or part of the rubber drainage tube was left right in the neck in the thyroid. It sets up inflammation and suppuration. There resulted all these indications and indicia which inevitably follow as one day
 30 does another upon interference with these parathyroids. It will be shown the tube was situated on the left lobe or side of the thyroid gland. Inflammation developed, pus congregated about the spot and consequently operation of the parathyroids was greatly impeded.

This indicates what the parathyroid is. This is the neck. There is the thyroid. It goes around the windpipe. It goes well back on the windpipe. You see the front of it here (showing jury textbook illustration.) On the back of it are these little parathyroid glands. In this case seven-eighths of that was removed, leaving the tips and leaving of course the parathyroids which had to be left. This is the collarbone. It is a woman's
 40 complaint and women do not like wounds to be seen so the operation always takes place where they can have a blouse over it in a kind of mouth like that. (Indicating.) Quite a big wound is cut across there below the thyroid and the operation takes place in there. (Indicating.)

In this case after 18 months this tube which had been obviously on this left lobe—I might say there is an isthmus between—this tube burst through and the tonsil is one inch above where the top of the lobe is. It might be less with inflammation, because the thyroid swells up. It eventually burst through the tonsil into the mouth and was swallowed. It was 1939. There is still to this day the punched-out hole in the tonsil that you can
 50 still see.

Over a year afterwards Plaintiff was examined by doctors. There was found in this tonsil still this punctured hole. It was as big as the blunt

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end of a lead pencil. It had little strands of tissue where it had begun to pull together and a depth which was measured. You will see the glass tube. It was measured some two years afterwards. It was three-quarters of an inch. It had decreased a little in measurement. It was not quite three-quarters of an inch deep on the second examination, actually measured with a glass tube.

I will try to give you some idea of the nature of the operation. The operation is a kind of mouth which is cut right across. It is a big cut coming down as far as possible, just over the collarbone here (indicating) and stretching up at the sides to allow the flap of skin to be pulled up. 10
The operation necessitates cutting through various layers. There is first of all the skin. There are tissues underneath and the fat and three sets of muscles. There are three fascia planes, thin tissues. They have all to be dealt with. The muscles are not cut, of course. Access has to be had to the thyroid gland. When that is done the thyroid, or seven-eighths of it in this case, is removed, cut out. Then a drainage tube is inserted, something a little less size than a pencil. It has to be inserted. If it is put in the right side, as this one was, it has to be into the left lobe because it has to go across the windpipe and some muscles there. If it was put in the right, it would be kinked because it has to go round, if you understand. 20
It is put in slantways. In this case it went into the left lobe. The reason for the drainage tube is to drain the wound if there is blood or any little secretion. It is cut. There is a V-cut to collect the drainage. When the operation is performed of the thyroid or such part as is desired to be removed then this tube is inserted and the surgeon has to retrace his steps. He stitches up around the tube as he goes. In this case you may come to the conclusion that what happened was this: there is a surgeon and an assistant working, and there is not much room and there would be a great mass of blood with the artery cut, or spurting blood. It looks as if what happened was that either when the wound was being stitched up 30
with a circular needle like that, either a bit of the tube was stitched accidentally into some part of the muscle or neck or else one of the stitches went through this V-cut and held it. That is roughly how the operation was performed. The tube was attempted to be taken out a couple of days after the operation. The Plaintiff will tell you the Defendant got hold of the end of the tube and put his hand on her head and pulled the tube and that it caused pain on the left side and along where it was. As he pulled it seemed to come out and he said "Damn," and she thought nothing at the time, she never suspected what the trouble was.

This was an exceptionally long operation. The usual operation 40
takes three-quarters of an hour to one hour. This was two and a half hours.

It is the admitted fact that the superior thyroid artery was in some way severed and had to be sewn up. That artery severed was at the very top of this left lobe. That would be the left from the patient's point of view. This is the one which was severed in such a way that it had to be stitched.

The patient was in hospital for nearly two months, and you will be told of the events which happened at the hospital. It was on 15th March that the operation took place, and tube was sought to be taken out on the 17th March. This is the admitted history. It does not depend on contested evidence. The history was that after the tube was sought to be taken out 50
there was a swelling of the neck.

Mr. CASSIDY : That is not so, the records you have in your possession show that you are misstating the position.

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Mr. SHAND : What I intend to convey is that what I am about to relate are the admitted facts of what happened to her after this episode with the tube, that on the day after there was swelling of the neck and chin and then you get a very high temperature going up to just under 104. I think 98.4 is normal. Temperature went up to 103.8. That indicates inflammation. You might get some short history of inflammation after such an operation but you expect it to clear up quickly. In this case
10 you got a "swinging temperature" which is clearly indicative of inflammation and inflammation of course at the site of the operation.

Three days after, Plaintiff developed—and these are the hospital records—cramp in the fingers. It is the sign of incipient tetany. Later on it was more severe. Why the cramp? Because something was interfering with the parathyroid glands and that something could only have been inflammation. It appears that this wound was probed. Probing a wound is to discover some substance which should not be there. That occurred on a number of occasions. Plaintiff developed a cough which is
20 this time the Defendant and Dr. Ritchie were there together time after time. I suggest the fact that these two doctors were in consultation so many times after this operation indicates a very unusual condition. It would be admitted that the Plaintiff was in a highly dangerous condition at this time. You still get temperature and you get the discharge from the wound. Plaintiff was lying on her right side so the tube which had been inserted from the right side could drain. The drainage was provided for by towels. There was a thick discharge on many occasions. She was being given a substance called prontosil tablets, which is the equivalent of the modern sulphanilamide and this discharge continues. Both doctors
30 continued in consultation to see her. The cough continued. Sometimes there was a large discharge and sometimes a smaller amount. It was most unusual and you will be told that it should have cleared up. It went on 16 days after the operation, still discharging. Three weeks after the operation it was still discharging. You will hear that knots of catgut were being discharged from the wound. That was where it had been stitched up. You will find significance in this: for some months after the operation knots of catgut were discharged. It seems clear that ordinary catgut was not used but that some treated material was used. Ordinary catgut dissolves in a number of days or a couple of weeks, but
40 this was coming out for months afterwards. Twenty-six days after there was still a fair amount of discharge. Twenty-seven days after, on the 12th April, she was given calcium lactate tablets. There is no question that they are for one purpose only. When the parathyroids are not working properly one cannot get enough calcium into the blood. It has to be supplied and it is supplied in an artificial form, one form being calcium lactate tablets taken internally. The most drastic and effective method is injection into the veins of calcium chloride. It has a marked effect on these tetany spasms. The history shows that when you get these injections you get an extraordinarily quick reaction by the patient
50 because the calcium is re-supplied artificially and she recovers from the spasms. The operation of these parathyroid glands is to draw calcium from the bones. That is where it comes from. It is secreted into the

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blood where it operates on the motor nerves. When it draws calcium the bones are re-supplied by the blood, but when you get this state of the patient's parathyroids not working they effect a temporary cure by injecting it straight into the blood. The day before Plaintiff left hospital she was given calcium lactate tablets for nothing else than the fact she was getting tetany. She had a feeling of pins and needles. That is another sign. This is the tube which was inserted (shown to jury). When she left hospital she was given by the Defendant further pills to take with her. It will appear reasonably clear what happened in this case. It was sought to remove the tube and a bit broke off. Tubes are used over and over again and are boiled and you know what happens to rubber under the circumstances. It appears to be the tube which perished. It broke off at the little V-cut. Very often when something is left in a wound it will come out of that wound. This wound is pretty deep. It starts here (indicating) and it goes upwards. It has to go right to the windpipe and around it. You will hear it did close. No one would suggest that any doctor did a thing like that intentionally, but the position is obvious. When the tube broke off Plaintiff was in a highly dangerous condition. You will be told by medical experts that it would have been almost madness to have operated on her then to get the tube out. There was pus inside. It would have spread. She had had a most serious operation and was in a highly dangerous condition. No doubt Defendant was actuated first by that consideration. Later you may think he thought it would probably come out of the wound like the knots of catgut came out, and he thought that the trouble would pass. He was no doubt reluctant to admit that he had made this mistake and that is where I say he was found wanting in moral courage. When we trust our health and lives to highly paid professional men we must expect from them not only skill but a degree of moral courage which will allow, if a mistake has been made, of it being rectified. Do not get into your heads that there is anything intentional in this—

Mr. CASSIDY : Are you opening that to the jury ?

Mr. SHAND : You gentlemen will hear all the evidence and some of it from the Defendant may surprise you. On the human probabilities it is quite clear what happened. The history is so clear later on. He was hoping and he really thought it would come out through the wound, but it did not. In this case the wound closed up.

Plaintiff went back to her home at Quirindi on April 29th and she saw the doctor up there, who will be called for the Defendant in this case. You will be able to judge his evidence and that is Dr. O'Hanlon. He was Plaintiff's private doctor.

Mr. SHAND : You will be told that when the plaintiff saw him her neck was swollen and she was in a bad condition. He ordered her into hospital at Quirindi on the 29th and she went in on the 30th. It was apparent then that the parathyroid had been disturbed, and that she had some tetany, the sinus was discharging, and the face and body were swollen. That was 17 days after she had left St. Luke's Hospital. He obviously did not know what was causing the trouble beyond the fact that he thought the parathyroids were affected. They were affected by inflammation caused by this tube.

She went into hospital, and according to the hospital records she was given fomentations to her neck for two hours, indicating inflammation, and

instructions were given to watch for and report any tetany. The night fomentations were applied again and the wound probed. In the day report the wound was probed for sutures, knots, which he would suspect would be the trouble.

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On the 4th she was given her own capsules, calcium lactate, and apparently under his instructions she was given glucose-D., that is what we know as vitamin D, and it is given in various forms. Roughly speaking, it acts to enable the blood to assimilate more easily the calcium. On the first day she was given glucose-D, and there is no doubt what she was
10 being treated for.

Next day she had twitchings in the body and face during the day—again symptomatic of tetany. The wound was probed, and nothing found. Fomentations were applied to her neck that night, and again the next day, and a little oozing of pus from the wound took place. You will find that when the wound was probed some of the poison or suppuration was released, and it used to relieve her.

On the 7th the swelling on the neck was opened, and there were instructions for the wound to be kept open.

On the 8th there was bloodstained oozing. You will hear that at one
20 stage this lady turned her neck and felt something catch, and there was bleeding then. That was the tube or other connection that was made somewhere.

On the 9th May she had a tetany spasm, and she was given this injection I have described, an intravenous injection of calcium chloride. Then comes the report—"Feeling a little better, p.m."—the effect of the re-supply into the blood of the calcium.

On the 10th she had another intravenous injection of calcium chloride, and then it was to be given daily.

From the 9th to the 17th May she had some four injections, and
30 she was quite free from any spasms.

Retracing my steps a little, before this the Plaintiff had left the hospital on the 13th April and she had gone into hospital at Quirindi on the 4th May. Before that her husband had written to the Defendant: "Dear Doctor, Mrs. Hocking stood the trip from Sydney better than I expected . . . the tetany is still very annoying but the attacks do not last quite so long." The doctor then wrote back: "Your letter and enclosed cheque to hand . . . I was talking to Dr. Ritchie to-day about Mrs. Hocking and he suggested that she take calcium in the form of calcium gluconate . . . I will drop Dr. O'Hanlon a line. I would be glad to know how Mrs. Hocking
40 progresses. She should gradually improve, and I hope she will be able to take her place on the tennis court next summer." She was not able to. So far from that she went into hospital from time to time, was bedridden part of the time, in agony with these spasms, and she lived the life of half a woman.

Coming to the 10th May, Dr. O'Hanlon wrote to the Defendant: "Dear Dr. Bell, Many thanks for your letter in reference to Mrs. Hocking . . . however, the tetany is I think worse." There is one cause for the tetany, and that is the failure to operate properly on the part of the parathyroid, and that is brought about by inflammation, and that here was
50 inflammation is beyond doubt. The letter goes on: "Yesterday, she had a very severe spasm involving practically her whole body . . . some text books regard post-operative tetany as being fatal often. What is your opinion?"—The rarest thing in the world, post-operative tetany

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progressing like this did. In the ordinary case it is practically unknown, but if you have got a tube there it is explicable.

On the 16th May there is this note—last intravenous injection done on the 14th May, and on the 16th there is a note that even her calcium capsules had been suspended. Next day, the 17th, she got a tetany spasm at 6 p.m. lasting until 7 p.m. An intravenous injection of calcium chloride was given at 6.45 and in a quarter of an hour she was better.

You are going to hear a lot of extraordinary scientific speculation on the part of the Defendant and his witnesses, but I want you to listen to the facts. 10

After that she was given in the following days from the 17th May to the 1st April, some eight injections, and there was no tetany spasm, because the calcium was being supplied, although the parathyroids were not working. She did not have any spasm until the 1st June. On that date in the morning she was given calcium gluconate, which is not nearly as effective a remedy as the other—it only lasts a few hours. At 6 p.m. she had a tetany spasm. Then they went back to the intravenous injections again, and she did not have any more tetany spasms until her discharge on the 9th June.

She was there from the 4th May to the 9th June, and she had been in St. Luke's Hospital for just over two months. She was discharged on the 9th June, but after she left she was given daily intravenous injections at home for a period. 20

On the 27th June—and I am still referring to the notes—she had a severe spasm, as the calcium chloride had been reduced from 10 cc. to 5 cc. By the 30th June her veins had become in such a condition from these frequent injections that they were not available—they clot permanently. She had then to be given another substance acting in the same way, paroidin, as a subcutaneous injection. Her husband was instructed how to give this. Even with injections in the veins you cannot always locate the veins when a person is in a tetany spasm. 30

On the 29th June the Defendant wrote to the Plaintiff's husband: "Many thanks for your letter re Mrs. Hocking, although I am sorry the news was not better concerning muscle spasms." He knew what it was, but he had let it go too long and could not admit his mistake then. "Since April I have been in touch with Dr. O'Hanlon . . . better success."

The Plaintiff when she came back from hospital had a nurse at her home in June up to towards the end of July. The operation took place in March and this was in June at the time of the doctor's last letter, three months later, and she was having these terrible spasms. You will hear that it is just about unknown that any ordinary postoperative signs should continue. Would not you have thought, if the Defendant was puzzled about it, that he would have seen this woman somehow and examined her to see why this was going on. He did the operation, and all these signs of these terrible spasms had come about after it. Even when she left the hospital they were starting. If he knew what had happened, that is a different story. Can you understand why a doctor, with these extraordinary results showing in his patient, should not make some effort to see her. The Defendant never did until he wanted her down for his own purposes. He was in touch with Dr. O'Hanlon, writing to him, and on the telephone. Had he thought that it was too late to admit it then? 40 50

So the Plaintiff continued in this terrible state of health, and on the 3rd September she went back to hospital—"readmitted 3rd September, for Dr. O'Hanlon, in tetany spasm. Calcium chloride given 5 p.m. with success. Muscles relaxed 5.15." Next day we have "Tetany spasm 6 a.m., intravenous injections not given, recurrence of spasm during doctor's visit. Her own injection, calcium lactate."

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Next day she was given her own injection, and given calcium lactate tablets. She had no tetany spasms following that. She was again given her own injections and allowed to go home. She was there only from
10 the 3rd to the 6th September on that occasion.

This condition continued until the end of 1938 and in 1939. On the 17th January 1939 Dr. O'Hanlon wrote again to the Defendant: "Dear Dr. Bell; your inquiry as regards Mrs. Hocking to hand a few days ago . . . in her trouble."

One matter which I had forgotten to mention was that after this operation—I told you about the tonsil—there appeared and there is still visible just about where the top of the left lobe of the thyroid was a depression, such as one would expect to be caused by this inflammation and suppuration that was going on with the tube round about this position.

20 I read to you the letter of Dr. O'Hanlon to the Defendant. The Plaintiff's condition continued very bad and grave in 1939. A lot of the time she was bedridden, unable to dress, and she was getting these spasms. On the 27th May the Defendant wrote to her—she having previously written to him—"Dear Mrs. Hocking. Many thanks for your letter . . . I heard from you." We have not got the letter that may have been written to Dr. O'Hanlon.

On the 19th September Dr. O'Hanlon was called in, and the Plaintiff had a severe spasm. On the 2nd October this tube passed. Relying on my own description I will tell you what the Plaintiff will tell you happened.
30 She had been in a very bad condition before this time. She will tell you that her birthday was on the 2nd, and it was some time before that she noticed something in her mouth like pus. She was constantly spitting pus out of her mouth. It gradually grew worse. She was very bad on the 2nd October. She says on the 1st October, the Sunday, she was constantly drawn up with spasms, and on the 2nd she was very terribly ill, sometimes relaxed, and sometimes drawn up. At about 3 o'clock she was seriously ill. These things clamp the muscles so that you cannot open your mouth. On this occasion she says "I seemed to be choking, something seemed to burst into my mouth, my jaws were set, I could
40 neither open nor shut my mouth; my husband put some water between my teeth. I coughed, and I swallowed whatever I had in my mouth."

It is inevitable that you should know, gentlemen, that this case has been before the Courts before. As I say, the Plaintiff was in a terrible condition at this time. After she had recovered, she was given aperients by her husband, and eventually a dose of castor oil. On the 6th October she was in this room by herself, her husband having left the house. The room was practically adjoining the lavatories—this is a country place. In the room in the commode she had a motion and went back to bed, as she was fairly exhausted with getting out; and then she went out to the lavatory to empty the commode. She saw in there an object, which turned out to be a rubber tube. She squeezed it and it was full of a kind of yellow and green pus or liquid, and there were two little things sticking

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out of the top ; and there seemed to be in the top something like what she has described as a marine sponge—which may have been a swab. Two little things were sticking out on top, which when touched bent down. She had this in her hand, and she heard someone coming. It turned out to be her husband, but she did not know it at the time. She was upset, with a commode in her hand and in pulling the chain this object slipped from her hand and went down the lavatory. Fortunately, although that is lost, that day she made a drawing of it. The drawing does not pretend to be to scale. She gave this drawing to Dr. O'Hanlon. She had had no experience in anything medical, and this is something that 10 no one could have imagined. (Sketch shown to jury.) These are the things that she said were like wire, and when you pressed them they bent down. They were obviously not wire—probably gut. The tube was soft and swollen, having been where it was. The diameter of tube would be, I suppose, half the size shown on the drawing, and the length less. That was given to Dr. O'Hanlon next day, and never seen by the Plaintiff again until it came into Court on the previous occasion.

This other exhibit is a thing which has been constructed for my friends.

Mr. CASSIDY : The Plaintiff sworn that was done in front of her 20 and that that was what she passed.

Mr. SHAND : You will hear all the evidence. She said it was a rough representation of what she passed, and then she said it was a fair representation. My friend says that "rough" was never used, but you will hear the evidence later. This is the thing that has been constructed (showing article to jury).

Following this her troubles cleared up ; there were no more spasms, and there was a gradual bettering of her condition. You will no doubt hear from expert witnesses all kinds of theories. Some will suggest that this is all hysterical, others that it is partly hysterical. I have given you 30 part of the history, and what I have given you is all down in black and white ; I have avoided matters which may be in contest.

The Defendant's attitude at first was that this story of the Plaintiff's was a wicked invention. I do not think he will take that attitude now, backed up with the history which I have related to you. It appears that the Defendant was being kept apprised either by telephone or writing with the main events that were happening with regard to the Plaintiff.

On the 7th October, one day after this tube had passed when the Plaintiff had the motion, Dr. O'Hanlon wrote—he having been summoned at once— 40

Mr. CASSIDY : He was not summoned until the night after.

Mr. SHAND : I may be unintentionally making a mistake there. Dr. O'Hanlon wrote to Dr. Bell : " Re Mrs. Hocking. Last evening I was called to see Mrs. Hocking who was complaining of pain in her left chest and down the middle of the chest . . . undissolved sutures." If this was ordinary gut, it would have been dissolved long before this, and it seems as though this thing that looked like wire was a piece of specially hardened gut. " . . . neck or lung."

Mr. SHAND : The Plaintiff herself wrote that and this is what she

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wrote—and she was no woman wanting to fasten a thing on to the doctor, listen to the tone of the thing, here was the doctor she had trusted. On 11th October she writes: “Dear Dr. Bell, you have probably heard from Dr. O’Hanlon . . .”—she had been in contact with Dr. O’Hanlon for a week and here is a man who knows he has not left anything in her throat and Dr. O’Hanlon writes about this tube having passed through and says that it is too vivid to be imaginary and then a drawing is also sent—what would any man do, wouldn’t he at once get in touch with Dr. O’Hanlon, but he did not—not for about a week. On 11th October
10 the Plaintiff writes: “Dear Dr. Bell: Thanks for your letter . . . please don’t think I blame you . . .”—she does not want to blame anyone but she was not met in the same spirit. She goes on: “I am not quite so sore on the sides . . . don’t worry about the tube.” That is a decent letter from a decent woman. Then he writes back: “Dear Mrs. Hocking: I am sorry to learn . . . spoke to him on 30th.” Dr. O’Hanlon wrote on the 7th. She came down and went into St. Luke’s Hospital, and the people who came to see here were the Defendant and Dr. Ritchie, and the Defendant got another doctor to do a blood test and another doctor, a
20 friend of his and an expert on throats, to make an examination. You may think that she was not brought down so much for the good of her own health but to see if the position could be faced up to.

Now let us turn to the hospital records. She came down on 25th October and was there to the 3rd November. You will be told by the Plaintiff that Dr. Bell, when she came in, never looked inside her throat. If that is so then why was it? He knew it was suggested that a tube had come out from her neck into her mouth and if he had any doubt about it wouldn’t he have had a look in the throat, wouldn’t he have looked at the throat? Of course, if he knew perfectly well what the cause was, then naturally he would not bother at all, he realised the fact. The hospital
30 records say—“Dr. Bell examined chest, back and neck”—it does not say “throat” because when the records say “throat” they mean it. Later on, on 29th—“Dr. Bell here, throat examined.” All he examined according to this was the chest, back and neck. Then again—“Dr. Ritchie will see patient, voice very husky.” Then on 26th—“Patient for blood calcium test 9 a.m.” Then—“blood test done on 27th. Dr. Ritchie inquires.” When the blood test is done it should have shown the normal percentage of calcium which is 10 per cent., but what it did show was 7.2 per cent. Then she is given inhalations for the condition of her throat, day after day she has a sore throat, she refused inhalations on two occasions and said
40 they caused the sore throat. Then after the blood test is done and the deficiency of calcium is shown in the blood, what is the treatment? On 31st October the treatment was that the patient was to have plenty of milk, calcium, that is the treatment for this type of patient, a deficiency of calcium—plenty of milk and halivol capsules. Halivol capsules contain fish liver oil, vitamin D, to allow the more easy secretion of calcium from the blood. As soon as the blood test comes in she is put on that. The throat is painted and she continues to be given the halivol tablets and continues with plenty of milk and with two capsules a night according to the record of the 2nd November. Then she leaves. The Defendant has
50 had his chance, he has had a blood test taken and Dr. Ritchie has been available to see her and also Dr. Marsh. In her throat then was the punched out hole I have described, which was later on measured.

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While she is at St. Luke's Hospital her husband has a conversation with the Defendant and this is the conversation that takes place, which is admitted by the Defendant, and the Defendant's attitude is that he did not and never did leave any tube in the neck and did not do anything wrong or negligent to cause the trouble, and this is the conversation which is to be found on p. 336. "Can you remember this conversation Mr. Hocking had with you?—A. Yes. Q. Mr. Hocking asked you what was tetany?—A. Yes. Q. You told him tetany is cutting off the supply of blood to the parathyroids on interfering with the supply of blood to the parathyroids?—A. It is not that exactly. Q. It is something of the sort? 10
—A. Yes, it is not accurate. Q. It is your view of these spasms, whether true tetany or not, that they may have been caused by infection which interfered with the work of the parathyroids as a result of the post-operative suppuration?—A. Yes." Mr. Hocking asked: "How did it happen?" The evidence is—"Q. You said it could quite easily happen in an operation of this kind but usually a few doses of calcium restores the person to normal?—A. Yes." In that he is saying it could easily happen in an operation of this kind, and yet this woman has been through this agony for 19 months. Generally this is practically unheard of, and yet that is what he is telling the husband, who knows nothing about the 20
results of this class of operation.

The husband said: "How do you account for the tetany persisting." The evidence is: "Q. How do you account for the tetany persisting?—A. Yes, the husband did ask me that. Q. You said to the husband—'I don't know unless it was the inflammation'?—A. Yes, I did say that. Q. Mr. Hocking said to you 'what caused the inflammation'?—A. Yes, Mr. Hocking did say that. Q. And that you said to Mr. Hocking you did not know?—A. Yes, I did say that. Q. Do you remember when you said that Mr. Hocking said 'I do'?—A. Yes, he did, he alleged the tube was there." Now keep that conversation in your minds gentlemen, because 30
that is the admitted fact. When she comes down after the tube passes he does not know how the inflammation occurred but Mr. Hocking said "I do." Is it credible—remember we are not dealing with an uneducated man—any man must have said: "This is absolute nonsense, you are imagining it, I didn't do anything wrong, I did not leave the tube there"—but that is the conversation.

Well, the Plaintiff goes back to Manly and she is given another prescription, calcium. Finally, she and her husband come down and have a conversation with the Defendant and the husband refers to this orifice or scarring in the neck and they ask the Defendant what they are going to do about it, and he said: "If that is the attitude you are going to take up you had better see your solicitor." That is where the matter stands. Those are the facts, and I put it to you that this is not merely a strong case but it is a conclusive case, and if, after you have heard the evidence, you will award to the Plaintiff such damages as you think are proper for the fact that this woman, as the result of this mistake, for some 19 months lived in a kind of recurrent agony and lost from her life that period except in so far as she had to bear pain, then such damages will be awarded. She is not a woman who comes asking for anything excessive, who asks merely that you deal with her fairly. We are not asking for your sympathy 50
because that would be wrong—cases should not be decided on sympathy

—but we ask for a good square deal between the two contesting parties. We beg you to put out of your mind any question of sympathy, all persons are level in this Court whether rich or poor and whether they are professional men like doctors or whether they are laymen. That is British justice, they all come before the juries and the juries deal with them as human beings and on the probabilities.

That is all I wish to say and that is all we ask in this case.

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PLAINTIFF'S EVIDENCE.

No. 6.

10 **EVIDENCE of Stella Eileen Hocking.**

Sworn, examined, deposed.

To Mr. SHAND: My name is Stella Eileen Hocking and I am a married woman living in Quirindi with my husband.

Q. In 1937 you were not very well?—A. No, not really very well.

Q. Before that had you always been a healthy woman?—A. Yes, I had never been ill before that.

Q. You were in the Quirindi Hospital from 19th October to 15th November, 1937, under Dr. O'Hanlon?—A. Yes.

20 Q. After you were in there you came down to Sydney?—A. Yes, that was some time in February, 1938. I saw Dr. Ritchie and I had some conversation with him and then I was sent to Dr. Bell. I saw him on the same day and he examined my throat. He did not say what was the matter with me, but that it would be better to operate on me then. He asked me where I wished to go and I did not know any hospitals, I had not been in hospitals previously except for a short time, and he suggested St. Luke's Hospital. I went in there.

Q. On 27th February? (No reply.)

Q. You were in there being prepared for an operation till 15th March?—A. I was in there under observation for about three weeks.

30 Q. You were operated on on 15th March by Dr. Bell?—A. Yes.

Q. And when you came out of the operation how were you with regard to bandages?—A. I don't remember any bandages, but I had some towels on the right side of my neck.

Q. Which side were you lying on?—A. On the right, across the right side of the bed.

Q. Anything on your neck?—A. I don't remember anything on my neck at that stage.

40 Q. At a later stage?—A. Yes, a pad in front of my throat and a piece of sticking plaster went from the pad to my shoulders and I had one piece of sticking plaster down my chest. I was lying on the right side.

Q. Do you remember anything about a tube?—A. No, not then.

Q. What is the first you remember about any tube?—A. The first I remember is the sister saying something. That was to get or to keep on the right side so my throat would be drained. (Objected to.)

Q. At any time did you learn where the tube was?—A. Yes.

Q. When did you learn that?—A. I could not say how long after, some time after.

Q. Where was that?—A. On the right side of my throat about there (indicating)—a little to the side, to the right side of the middle.

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Q. Is there some mark there?—A. Yes, there is still a slight scar.

Q. That is apart from the big operation mark?—A. Yes.

Q. After the operation do you remember Dr. Bell saying something about the tube?—A. Yes, he said the tube was not working and he would take it out so he loosened some stitches and pulled the tube in his fingers, shook the tube, and it did not come out and so he pulled a little harder and it still did not come, so he put his hand on my forehead and held the head back firmly and pulled and whatever it was came out and he said "Damn" and I said "Oh." He held it in his fingers for a second and I saw it, just a little dark piece of rubber, then he threw it into the 10 tray and he and the sister turned around and left the room. I had a stinging sensation in the throat. It stung very much there (indicating).

Q. You are pointing to the left side now?—A. Yes.

Q. How long did you think it was after he pulled it out, after the operation?—A. I could not say exactly, but I think three to four days or perhaps five days. I was very ill then.

Q. Did you feel anything about your face and neck after that?—A. It was very swollen; I could feel that.

Q. How was it with regard to soreness?—A. Still very sore.

Q. Anything about temperature?—A. I was running a terrible 20 temperature.

Q. What treatment were you having?—A. Hot fomentations after that.

Q. Do you remember what treatment was given to you in the following days?—A. Hot fomentations after that.

Q. Did anything happen with regard to the wound?—A. Some time after the hot fomentations the wound burst and discharged and ran down my chest and I felt a little better after that—far from well.

Q. After the discharge had come away do you remember Dr. Bell doing anything?—A. Yes, after that he used to put his hands around 30 my throat and press downwards and he would say to sister "Now" and she would pick at the opening in my throat and they said they were picking out knots.

Q. Did he himself use any instrument?—A. He used a probe. He used to probe the wound with the probe to keep it open and running freely.

Q. Anything else he used?—A. No, I don't remember him using anything else.

Q. What was the probe like?—A. A straight thin piece of wire.

Q. Where did the discharge come from?—A. Through the middle of 40 my throat.

Q. Was that where the tube was?—A. No, that was on the side.

Q. As time wore on did you get any other indications?—A. I had twitching in my hands, pins and needles in the hands, and I asked Dr. Bell what it was and he said it was just pins and needles.

Q. Did you get anything in the feet?—A. After a time, not at the start. Just the pins and needles in the feet for a start; that was the early stages after the operation.

Q. Did the doctor say anything to you, any particular technical term. Did he mention tetany?—A. I don't remember him mentioning 50 tetany at that stage.

Q. Later on?—A. Yes, later on he did. He said it was slight tetany, a few calcium tablets would rectify that.

(Copy of hospital records from 22nd February 1938 to 14th April 1938 tendered and marked Exhibit "A.")

Q. After the 14th April you left hospital and returned to Quirindi?—
A. Yes.

Q. You have a cottage there?—A. Yes.

Q. Have you a daughter?—A. Yes, she was there then; she was 13 years of age then.

10 Q. After you returned did you get any particular type of feeling?
—A. Yes, I had these pins and needles across the rear of my hands and feet. I think it began to twist in my thumbs and draw my hands around.

Q. Your thumbs were twisted towards the palms of your hands?—
A. Yes.

Q. And arms drawn down?—A. Yes.

Q. Anything about your feet?—A. At that stage my feet did not draw around so much as they did later, but I had pins and needles and cramps and severe pain in the feet and legs. Dr. O'Hanlon came to see me about a week or 10 days after I returned.

20 Q. What were the symptoms then?—A. They were gradually growing a little worse.

Q. In what way?—A. I was beginning to draw down more and the turns were more frequent.

Q. Were you taking anything?—A. Yes, calcium lactate tablets. Dr. Bell prescribed the lactate tablets.

Q. You went into Quirindi Hospital shortly after that?—A. Yes, after seeing Dr. O'Hanlon I went in in a day or two, I think—that was his advice—he wanted to take me up when he came to see me.

30 (Record of Quirindi Hospital from 14th May 1938 to 19th June 1938, tendered and marked Exhibit "B.")

Q. When you went to the hospital what treatment did you get—how was your face and neck?—A. Very swollen.

Q. Was your body affected?—A. Yes, I was swollen right down but my legs were quite thin. The other part of the body and face were very swollen.

Q. What kind of treatment did you get from the hospital?—A. When I first went in I continued on calcium lactate tablets for a short time—I could not exactly say how long—and I took a bad tetany turn and was given some injection. I am not sure whether it was calcium chloride.

40 Q. What was the bad turn?—A. A bad tetany turn. I was drawn for some hours, constantly drawn further in and the muscles tightened until I was drawn right up. I was drawn up with my knees drawn up to my chin and the nurses were massaging my stomach and limbs trying to keep the muscles from tightening further.

Q. What happened after the injection?—A. I felt a little better after a time and the spasms went off.

Q. What about the wound in your neck?—A. It was still discharging and swollen. It had been dressed several times a day and was still being dressed.

50 Q. After a time was the wound kept open?—A. Yes; the doctor had given orders that the wound was to be kept open.

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Q. While in hospital this time did you feel anything?—A. Yes, one evening I turned my head—my daughter was sitting on the left and my husband on the right and my daughter spoke and I turned my head quickly towards the left and something stuck in my throat and it started to bleed. My husband said something and I rang the bell but I told my husband . . . no one came along and I wiped the blood from my chest with some cotton wool I had in a drawer and the fireplace was quite close to the bed, and I had nowhere else to put it other than in the drawer with the clean things so I threw it into the fire, as I swabbed my neck.

Q. Do you remember anything happening to your face or any part of it?—A. Yes. On one occasion I had the tetany very severely in the left side of the face and I was terribly drawn and I did not have it in the right. My hands were only slightly drawn but I could pick up anything awkwardly. I had a hand mirror by the bed and I picked it up and pulled my eyelid back on the left and I had to give a very hard pull, almost pull the lashes out, to pull it and the left eye pupil was turned right back. 10

Q. You left hospital on 9th June. When you left hospital did you have anyone with you?—A. I left hospital with a trained nurse, Sister Sly. She came from Sydney. She was a Sydney nurse and she was with me about five or six weeks. 20

Q. During that period was Dr. O'Hanlon calling?—A. Yes; every day and he was giving me intravenous injections each morning.

Q. Did you have any severe attacks during that period?—A. Yes, several, but I could not say how many.

Q. Were they severe while being given these injections?—A. Not as severe as I had after.

Q. While Sister Sly was there, how was your condition, better or worse or the same?—A. It was up and down for a while and toward the last it gradually improved and I felt a little better.

Q. What about your wound which was still open in hospital?—A. It was open for exactly four months and it closed just before Sister Sly left, a few days before, I think. 30

Q. Did Dr. O'Hanlon visit you after Sister Sly left?—A. Yes, on occasions.

Q. Do you remember one occasion on the day you went to Quirindi Hospital again, the 3rd September?—A. I don't remember him visiting me but I remember being in the hospital the next day. I had had a severe tetany turn. The doctor called while I had it and took me up to the hospital in his car. That was a very severe attack. I was given an injection of calcium chloride at the hospital but I knew nothing of it till the next day. 40

Q. While in hospital you had recurrence of tetany spasm?—A. Yes.

Q. And were given injections?—A. Yes.

Q. Before that occasion you said that before you went to hospital Dr. O'Hanlon used to call on occasions?—A. Yes.

Q. Do you remember something happening about these intravenous injections?—A. Yes, after I had been home about four weeks or so, I had had intravenous injections each day and my veins were gradually drying up, so to speak, shrinking up very small and one morning he tried and we counted about 15 or 17 or more, a great number of punctures that he had made trying to get the injection into the vein and I was just a rash over my arms and legs where they had put the needle in—white patches of sticking plaster. He was not able to get it in that morning and following 50

that I had paroidin, that was injected under the flesh. The sister injected that for a while and then Dr. O'Hanlon showed my sister how to inject it and also my husband was shown how to do it after the nurse left.

(Luncheon adjournment.)

Mr. SHAND : I have got you up to the period when Sister Sly was there. You said the wound healed some time just before she left in July ?—A. Yes.

Q. You had gone to Quirindi Hospital again on 3rd September. You had a spasm there ?—A. Yes.

10 Q. You have also given the treatment you had. You have spoken of the paroidin treatment ?—A. Yes.

Q. In 1939 was anyone assisting you at any time in the home ?—A. Yes, Mrs. Fisher was assisting me in the home then.

Q. Was your daughter at home then ?—A. Yes, she was home part of the time, if I remember rightly.

Q. Was she at a boarding school ?—A. Yes, she was.

Q. But came home for the holidays, or when ?—A. Oh, on the 3rd September, you mean, she had not gone to school then. She went after that. She had not left home.

20 Q. In 1939 did she go to school ?—A. I think it was 1939. I am not sure.

Q. I want to deal with 1939. How did your condition progress in 1939 ?—A. Some days I would feel a little better, other days I was not so well, but I gradually grew worse taking it on the whole.

Q. What was the worst period in 1939. You say you gradually got worse ?—A. I do not know the dates.

Q. Tell me about what month ?—A. I could not say, but somewhere about September ; no, it would be before that.

Q. Do you remember Dr. O'Hanlon coming in September ?—A. Yes.

30 Q. What happened then ?—A. I had been very seriously ill about that time.

Q. Does that mean spasms ?—A. Yes, and I had very bad pains down my back and spine, down the spine like and the side, and the side of my face.

Q. After the wound closed in July, did you notice anything about your neck and face ?—A. The swelling was much worse at times.

Q. What is the date of your birthday ?—A. 2nd October.

Q. Do you remember something happening about that time ?—A. Yes, for a while before that date.

40 Q. That was your birthday. What happened ?—A. I was really seriously ill for quite a while before then. With the swelling in my face and neck and shoulder and my back, well, I looked like a hunchback, so swollen at the back of the shoulder and my neck was terribly swollen and my face and my eyes were almost closed. I had difficulty in breathing. I breathed mostly with my mouth open. I had a very nasty taste in my mouth like bad teeth, or pus coming away.

Q. Round about your birthday do you remember something happening ? Did you have any spasms ?—A. Yes, on the Saturday and Sunday I was constantly drawn up with the tetany spasms. My muscles 50 never relaxed once. I was closely drawn. They would give a little and I could straighten in bed, but sometimes my knees were drawn up. I was

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drawn up, round. My back was bent up round. On the Monday I was really very ill. Round about 3 o'clock I did not think I was going to live any longer. I had my neck so bad. My husband came home round about then—I could not say exactly what time—and I had a coughing fit. I seemed to be choking. I started to cough and I swallowed something.

Q. How was your mouth?—A. I could not open or shut it. My teeth were not close together.

Q. You seemed to swallow something?—A. Yes, and I took a terrific lurch and the muscles seemed to tighten up dreadfully hard. Something burst into the left side of my face. I felt something knock through, as it were. I felt a sensation like something bursting. I had something on my tongue and I swallowed it, whatever it was. 10

Q. What happened after that? What was your condition?—A. I was still very ill after that for quite a while.

Q. Did you feel any sensation following that?—A. I do not remember clearly, but I think next day I felt a sensation in the stomach. Of course I felt something going down my stomach. It went very slowly. It seemed to move down my stomach.

Q. On the following day did your husband give you anything?—A. Yes, I do not remember clearly whether it was paraffin oil or Kruschen salts or something the first time. 20

Q. And then did he give you something else?—Yes; then he gave me castor oil.

Q. Did the castor oil take effect?—A. Yes.

Q. When would that be?—A. On the Thursday morning early.

Q. Was anyone in the house then?—A. No, I do not think anyone was in the house at the time.

Q. Did you have a commode in the bedroom?—A. Yes.

Q. Did you use it?—A. Yes.

Q. Was it emptied at once?—A. No. 30

Q. What was your state of health then?—A. I was really very ill, very weak.

Q. After using it what did you do?—A. I got back into bed after that.

Q. Were you able to get about properly?—A. No, I could not. I was terribly stooped up and got about weakly. I crawled and felt my way along the walls and on the chairs and I got about like that.

Q. What did you do?—A. I went back to bed after using the commode.

Q. After some rest what did you do?—A. I rested quite a while. Then I got up and took the pan from the commode and as I was taking it out, in the light of the verandah I noticed something in it. I picked it out in my fingers. It was quite a startling looking thing. I took it out and squeezed it and as I did so a yellow greenish pus ran down my fingers. I was holding it in my left hand and I heard someone coming. I picked up the pan and went to tip it into the toilet. As I did I pulled the ring across with my fingers so (indicating), that is the chain, and of course I am left-handed so to speak, and I dropped this. I was leaning against the wall holding this in my fingers and with the nervousness it dropped out. The water was running as it hit the piece of tubing. 40

Q. What happened?—A. Well, it was washed away. 50

Q. On that day did you make that sketch which I show you?—A. Yes.

Q. Whom did you give it to?—A. To my husband.

(Sketch tendered and marked Exhibit "C.")

Q. Was that a drawing to scale?—A. Oh no, I did not intend it to be drawn to scale. It was a sketch to show my husband what I had seen. I did not know what it was.

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10 Q. Will you describe it generally? First of all you say you squeezed it. What was it like?—A. The thing I had in my finger, I would say a soft greyish piece of tube like a piece of rubber which had been in water for some time. It was swollen. It was not smooth like a new piece of tube.

Q. What about the shape?—A. There was a straight cut at one end. It was split up within half an inch of the end and it had in that opening a swab which I thought was a piece of marine sponge with a blackish-looking stuff. It had come from this sponge and it looked like black wire, but when I bent it it would fly back straight. It was like horse hair, and it would fly back quickly straight. It looked like wire to me, but it could not have been wire.

Q. Was it as thick as that you see there? Was it as thick as the wire itself?—A. Not half as thick, I don't think.

20 Q. You say you gave the sketch to your husband?—A. Yes.

Q. Did you know at the time that it was a drainage tube?—A. No, I did not know. I did not know what it was until Dr. O'Hanlon was called.

Q. He had a conversation with you?—A. Yes.

Q. When did Dr. O'Hanlon arrive after that?—A. I think it was next evening.

Q. You had a talk or a conversation with him?—A. I did not say very much really to him. My husband had a talk with him.

30 Q. How were you then?—A. I was still very ill, but better than I had been.

Q. What happened next day after Dr. O'Hanlon saw you?—A. He took me up to the hospital for X-ray examination.

Q. How were you then? Could you move unaided?—A. No, my husband and the doctor helped me into the car and they took me up to the hospital and wheeled me in in a wheel chair to the room.

Q. Were you X-rayed?—A. Yes.

Q. Were you able to stand up alone while being X-rayed?—A. No, my husband and the nurse held me, one on either side.

40 Q. When you went back what happened? You came back from the X-ray?—A. I went straight back to bed then.

Q. How was your mouth then?—A. My mouth was terribly—well, it was coated at that stage.

Q. Before you felt this something burst out how was your mouth?—A. It was swollen.

Q. The inside of it?—A. Yes, swollen and thick with pus, terribly thick.

Q. You went back to bed after the X-ray?—A. Yes.

Q. And Dr. O'Hanlon came to your place before the X-ray. Did he make any examination of your throat?—A. No, not the throat.

50 Q. Did he at any time, either then or when he saw you at the hospital, endeavour to make an examination of your throat?—A. No, he did not at the hospital either.

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Q. Could you open your mouth then?—A. I could open it better than I could before, like the 2nd October, but I could not open it wide, only slightly.

Q. After you came back from the X-ray you went to bed. Were you doing anything to your throat?—A. I was gargling it with Sollyptol.

Q. Did you notice any results?—A. It felt very much better after gargling. Every little while I would have a warm gargle.

Q. Was there any result when you ejected the gargle?—A. The colour of it, it was yellowish, clouded looking, when I spat it out.

(The following letters were tendered and marked Exhibit "D." 10

Plaintiff's husband to Defendant, 2nd May 1938.

Reply of 4th May.

Letter from Dr. O'Hanlon to Defendant, 10th May 1938.

Letter from Defendant to Mr. Hocking, 29th June 1938.

Letter from Dr. O'Hanlon to Defendant, 17th January 1939.

Letter from Defendant to Mrs. Hocking, 27th May 1939.

Letter from Dr. O'Hanlon to Defendant, 7th October 1939.

Letter from Plaintiff to Defendant, 11th October 1939; and

Letter from Defendant to Plaintiff, 15th October 1939.)

Q. On 11th October it appears you wrote a letter to Dr. Bell which 20 I have already read?—A. Yes.

Q. Have you got the reply which I have already read to the jury?—A. Yes.

Q. In that reply was there a suggestion you come down to Sydney?—A. Yes.

Q. Did you come down to Sydney with your husband?—A. Yes.

Q. You went into St. Luke's?—A. Yes.

Q. I think you went in on 26th October. How were you when you went down compared with what you had been?—A. I was much better, but I was still seriously ill. I was carried out, put into a taxi and taken 30 from there to the railway at Quirindi, and I was put into a sleeper and brought to Sydney. Then the ambulance met me at the station here and took me to the hospital, St. Luke's.

Q. The first day you went there do you remember seeing Dr. Bell?—A. Yes.

Q. Did he look inside your mouth at all?—A. No.

Q. Did he say anything?—A. He said he had heard from Dr. O'Hanlon and he said the sketch was very good. I did not know what he meant for a while. I did not know Dr. O'Hanlon had sent him the sketch. I did not know until then. 40

Q. Did he make any mention of your chest?—A. He asked me had I ever had any chest trouble, and I said no. He said I was very thin and anæmic.

Q. What treatment did you have when you went into hospital?—A. For a few days, after I was there a day or so, I had inhalations to my throat and I had my throat painted and I had gargles.

Q. Did Dr. Bell ever look at your throat, that is the inside of it, until you have had treatment?—A. No, it was five days after I was in hospital and I had very cruel treatment. I don't know what it was, but something was put in my drinking water. It was very cruel. It hurt very much. 50

Q. Where did it hurt?—A. It burnt my throat. On the fifth day when doctor came I told him that the wall of pus had cleared from my

throat. He had a look at my throat and he said about seeing Dr. Marsh, that he was the senior throat surgeon, throat doctor, and to see him.

Q. Did Dr. Marsh come to the hospital?—A. Yes, some time during that day he came to the hospital.

Q. Do you remember another doctor coming before him in regard to a blood test?—A. Yes, Dr. Tebbutt.

Q. What did Dr. Tebbutt do?—A. He tried to take a test from the centre of my arm and he could not do it. He was a while running around from one arm to the other, trying both at the elbow. I said: "You will never get a test of my elbow," that I had had too many injections. He told me not to tell him that because he had been taking blood tests for over 20 years. After a while I helped him get this test from my arm lower down.

Q. Did Dr. Ritchie come while you were there?—A. Not that day, but while I was in hospital.

Q. On more than one occasion?—A. On two or three occasions, I do not remember clearly.

Q. Did he make any examination of you?—A. No.

(The following records were tendered and marked respectively Exhibits "E," "F" and "G.")

20 Copy records, Quirindi Hospital, 3rd September 1938 to 6th September 1938.

Records, St. Luke's Hospital, 25th October 1939 to 3rd November 1939.

Quirindi Hospital records, 19th October 1937 to 15th November 1937.)

Q. After you left hospital was there any arrangement made to see Dr. Ritchie afterwards?—A. I saw him on the day I left hospital, and then I was to see him before I went home.

30 Q. You went down to Manly?—A. Yes.

Q. Did you go and see him?—A. Yes.

Q. Did he give you this prescription (document dated 10/11/39)?—A. Yes.

(Prescription tendered and marked Exhibit "H.")

Q. You went back to Quirindi after you were at Manly?—A. I came in to see Dr. Ritchie and Dr. Bell before I went back.

40 Q. What happened when you saw Dr. Bell?—A. I do not remember clearly. I know there was some conversation. I know he told me to continue with the calcium lactate tablets which I was taking and the prescription Dr. Ritchie gave me for the halivol tablets and calcium tablets, to continue with those.

Q. What about the paroidin? Was there anything being done about that?—A. No, it had ceased. I was not having those injections.

Q. You went back to Quirindi?—A. Yes.

Q. After you had been back did you and your husband have some conversations with Dr. O'Hanlon?—A. My husband.

Q. After the tube had passed in October up to the time you came down on 25th October to St. Luke's, had you been having the paroidin then?—A. I think I only had two injections, one or two after that.

50 Q. You had returned to Quirindi. Your husband had some conversation with Dr. O'Hanlon?—A. Yes.

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Q. Following that did you come down to Sydney again with your husband?—A. Yes. I could not say the date, but some time in the March, I think it was.

Q. Had you had any spasms since?—A. No, I had not had any.

Q. In March you came to Sydney. Did you see Dr. Bell and did you have some conversation with him?—A. He asked me what I came for, did I come down for the show. I said "yes," and I had come to see him. I said: "What are you going to do about the tube?" He said he did not leave any tube in my neck, and if I was going to talk like that I had better see my solicitor. He asked me had I seen Dr. Ritchie, and I had not seen him then. I went up to see Dr. Ritchie through Dr. Bell. 10

Q. Did he say anything?—A. Dr. Bell told me to see Dr. Ritchie.

Q. Do you remember your husband making some remark about your mouth before Dr. Bell?—A. Yes, he asked Dr. Bell what made the scar on the inside of my throat, and Dr. Bell said it was a large knot.

Q. Your throat has since been examined by a number of doctors, a number on behalf of the Defendant?—A. Yes.

Q. And Dr. Thompson measured it?—A. Yes.

Q. You are willing to allow any of the gentlemen of the jury to look at it?—A. Yes, I am quite willing for anyone to see it. 20

Q. Did you notice it yourself?—A. Yes, I was painting my throat after I left St. Luke's and went to Manly. The nurses painted my throat while I was in hospital. When I went to Manly, I had to paint my own throat with Dr. Marsh's prescription, and his gargle. I noticed it then.

Q. Is there also some depression?—A. Yes, there is a depression on the outside of my throat.

Q. Will you indicate to the jury where it is?—A. I do not think they can see it now. It is a slight hollow.

Q. Was it there before your operation?—A. No, definitely not.

Cross-examined :

30

*Cross-
examina-
tion.*

Mr. CASSIDY: You have give evidence now, this is the fourth occasion, is it not?—A. Yes.

Q. To-day you have departed entirely from your own story in some respects, have you not?—A. No.

Q. You are aware, of course, from reading it that the Full Court said that your story—(Objected to: argued in the absence of jury and partly in the absence of the Plaintiff).

Q. (On jury and witness returning to Court) The position was this: in 1937 you were very, very ill, is that right?—A. No, I was not really very, very ill in 1937. 40

Q. It would be wrong to suggest that in 1937, that is months before this operation, you were very ill?—A. No, I was not very ill, not until after Christmas.

His HONOR: Which Christmas?—A. 1937.

Mr. CASSIDY: So we may take it it was not until after Christmas 1937 that you tell the Court you were not ill?—A. I was not seriously ill. I was playing tennis in March and April and August.

Q. You were in hospital for something like six weeks in 1937?—A. No, I was there barely four weeks.

Q. You were in the Quirindi Hospital four weeks?—A. About four 50 weeks.

Q. That would be from the 19th October 1937 until November 1937 ?
—A. Yes, I was there under observation. The doctor did not know why I was not feeling very well.

Q. Because you were not feeling very well ?—A. Yes, I was walking about and doing things almost as I am now.

Q. It would be wrong to suggest that your condition had got very, very serious ?—A. Yes, it would be wrong.

Q. Your weight had got down to 6 stone 13 ?—A. No, not at that stage.

10 Q. But of course you are much more than 6 stone 13 now ?—A. I have not been weighed.

Q. You can go better than that ?—A. No, I have not weighed.

Q. You are a lot more than 6 stone 13 now ?—A. I should say I was round about 9 stone now.

Q. At that time you were having noises in your head ?—A. No, I was not.

Q. It would be wrong to suggest that you were then in a very highly neurotic state ?—A. Absolutely wrong.

Q. Did you know then that you had goitre ?—A. No.

20 Q. You really did not know you had goitre ?—A. No, I did not.

Q. You know that goitre means enlargement of the neck ?—A. I had no enlargement of the neck.

Q. May I take it then you never had the idea you had goitre in 1937 ?
—A. No, I had no idea.

Q. So when you came down to Sydney to consult a specialist, Dr. Ritchie, you had no idea you had goitre ?—A. No, I had not.

Q. You could not see it ?—A. No, you could not.

Q. You were in Sydney to see Dr. Ritchie as early as February 22nd 1938 ?—A. Yes, round about there.

30 Q. You remember Mr. Shand putting in the records which show the time you saw Dr. Ritchie ? It was February 22nd 1938 ?—A. Yes.

Q. Did you know you had goitre then ?—A. No, I had a bad heart. There was no sign of any swelling in my throat, none.

Q. Did not the doctor tell you ?—A. No, he did not.

Q. Did Dr. Bell tell you you had goitre ?—A. He said something.

Q. Goitre is a very, very ordinary thing ?—A. Quite common.

Q. You know it well ?—A. I do not know it well.

40 Q. You went away for a holiday under Dr. O'Hanlon's advice. You went to Terrigal to endeavour to get better ?—A. I don't remember it. I have only been there one day, and that was passing through in a car. I do not know how I could go for a holiday there.

Q. I put it to you that Dr. O'Hanlon had had you to see Dr. John Whitten Flynn, a distinguished Sydney doctor, in connection with your trouble ?—A. It was before I went into the hospital.

Q. Your husband is a grocer's assistant, you have told us, I think. You had come all the way from Quirindi down to see a specialist, Dr Flynn, is that right ?—A. Yes.

Q. I put it to you at that time you were in a highly nervous, neurotic state ?—A. I was not.

50 Q. You were under Dr. Flynn's care for three weeks ?—A. No, I was not. I saw him a couple of times.

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Q. Would it be true that you were in Sydney three weeks and visiting Dr. Flynn?—A. No, it would not be true that I visited him. I had three weeks' holiday, my husband's annual holidays.

Q. Were you well then?—A. I was not really seriously ill.

Q. After you went back from Dr. Flynn did you try a holiday at Terrigal?—A. No, I did not.

Q. Is it wrong to suggest that you went to Terrigal for a holiday?—A. It would be. I have never had a holiday at Terrigal.

Q. Then after Dr. Flynn, after the treatment down here, you went into hospital?—A. Yes, and Dr. O'Hanlon called Dr Flynn a few names 10 when I went back. I had X-ray treatment for a slight irritation on the back of my neck and I was severely burned.

Q. You were having trouble on the back of your neck then?—

A. Yes, it was only slight, you could not see anything.

Q. Your nervous condition was extremely bad?—A. No, it was not. I managed my own home and my affairs and I am to-day. I just did as I am doing to-day, at that stage.

Q. You have noticed that your Counsel has put in the hospital records of your various periods in hospital?—A. Yes.

Q. You have heard them referred to on numerous occasions?— 20
A. Yes.

Q. Do you dispute them?—A. No.

Q. If the hospital records gave you as weighing 6 stone 13, will you deny that?—A. I did at one stage, but I do not know when it was.

Q. Will you deny you were down to 6.13?—A. At one stage I was.

His HONOR : At one stage when you were in the hospital?—A. Yes, I was there quite a while when they weighed me and I could not eat the hospital food. I could not eat the blue sago, it was so blue and tough, it was the colour, it was impossible to eat it.

Mr. CASSIDY : Do you say the only food you had was blue sago?— 30
A. It was not the only food, but that was the bulk of the food.

Q. That hospital at Quirindi is a very well run hospital, is it not?—
A. It is supposed to be a little better now.

Q. When did it start to get better?—A. I do not know but it was very bad at that stage.

Q. You have been there on three different occasions?—A. Yes.

Q. And received the best of treatment there?—A. No, I did not receive the best of treatment.

Q. Take the May to June period. Do you suggest you were not looked after then?—A. I was not made a fuss over; I was just looked 40 after—(Objected to; admitted).

Q. Did you expect a fuss to be made over you?—A. Oh no, I did not expect a fuss.

Q. You were very friendly with Dr. O'Hanlon in 1937 when you were in hospital?—A. No, I was not very friendly with him.

Q. He lived within two and a half blocks of you?—A. That does not make any difference with me.

Q. He often called in to see you in that period?—A. While I was in hospital.

Q. After you left hospital and when you came to Sydney, November 50 to February?—A. Only when he gave me intravenous injections, he called

every day, but other than that I could not say he visited me, well, only when sent for occasionally.

His HONOR: Were you having intravenous injections after you left Quirindi Hospital the first time and before you saw Dr. Ritchie?—A. No.

His HONOR (to Mr. Cassidy): Will you specify the occasion?

Mr. CASSIDY: When you came to Sydney you saw Dr. Ritchie?—A. Yes.

Q. You came to Sydney on 21st February 1938. You saw Dr. Ritchie?—A. Yes.

10 Q. Dr. O'Hanlon told you that he had written to Dr. Ritchie an account of your case?—A. No, he did not tell me. Dr. Ritchie told me.

Q. Dr. Ritchie told you he had received a letter with an account of your case?—A. I think he gave me to understand that, I am not sure of it.

Mr. CASSIDY: You actually took the letter down yourself and handed it to him?—A. No, I did not hand it to him.

Q. Did you know in that, that your nervous condition—— (Objected to.)

20 Q. Did Dr. Ritchie ask you questions about your condition when you arrived?—A. He said very little. He just looked at me and took my pulse, and put a tourniquet around my arm, and tested that, and looked at my throat and he said I could be treated without an operation.

His HONOR: What did he say?—A. He said: "You could be treated without an operation," but he always advised an operation.

Mr. CASSIDY: What for—did he tell you?—A. He did not actually say.

Q. Did you ask him?—A. I asked him, but it was just the throat trouble.

30 Q. What did he say was wrong?—A. He did not say what was wrong.

Q. Did he look at your neck?—A. He said my heart was very bad.

Q. Did he look at your neck?—A. Yes, but he was more concerned with my arm than my neck.

Q. He did not suggest there was going to be any operation to your heart?—A. He said it would relieve the heart.

Q. Did he tell you nothing about what he had heard from Dr. O'Hanlon as to your case?—A. I do not remember him saying anything.

Q. Will you swear you did not bring the letter with you?—A. I did not hand him the letter. Dr. O'Hanlon did not give me any letter.

40 Q. Was your husband with you at that time?—A. Yes.

Q. Was he present when you saw Dr. Ritchie?—A. Yes.

Q. Did not Dr. Ritchie tell him what was wrong with you?—A. Only what he said to me.

Q. Did not your husband ask?—A. I do not remember him asking.

Q. Let me pass along a little. You were very ill on admission to hospital, in a serious state on admission to St. Luke's?—A. No.

Q. On the 22nd February?—A. I went to see Dr. Ritchie and I went from Dr. Ritchie's office to Dr. Bell's office.

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Q. You were about three weeks in hospital under preparation for the operation?—A. Under observation—and Dr. Ritchie said——

Q. Just a moment. You were in hospital, and Dr. Bell visited you on occasions?—A. I think he visited me most mornings.

Q. Dr. Bell you may take it—you remember the date probably—finally operated on 15th March 1938?—A. Yes.

Q. You remained in hospital until the 14th April?—A. Yes.

Q. To the people in hospital you described it as you adored Dr. Bell?—A. No, not on that occasion.

Q. Did not you?—A. I did not. 10

Q. Did you say that you adored him?—A. On the last occasion, when I went down after the drain had left my throat, I said it, but it was no compliment.

Q. Do you remember being asked on other occasions about your saying Dr. Bell was a gentle man in hospital, while you were there, that Dr. Bell was a gentle man?—A. No, I cannot say I did.

Q. Do you say you have never sworn that?—A. I thought he was quite nice, but I did not go to any bother about expressing any opinion.

Q. Do you remember being asked about that very thing that in hospital the first time in April, whether you said you adored Dr. Bell?—A. No, I did not. I have only said it once. 20

Q. When was that?—A. On the last occasion—I was in St. Luke's Hospital.

Q. May we take it according to you that, although you have said it, it was not until October 1939 that you said you adored Dr. Bell?—A. Yes, but I did not mean it as a compliment.

Q. You did not?—A. No.

Q. Do you remember swearing also that you found him thoughtful for you in every way while you were in hospital that first time?—A. Yes, he appeared to be quite thoughtful. 30

Mr. SHAND: The witness says: "As far as I knew."

Mr. CASSIDY: Is that right, as far as you knew, you meant to infer you did not know?—A. He seemed all right. That's all I know.

Q. I want to read you what you swore before. You realise you have given evidence on three occasions before. "Did you say at St. Luke's Hospital after the tube was removed to a member of the staff that you adored Dr. Bell?" Then you said "No." "Have you ever said that?—A. Yes." "To a member of the staff?—A. Yes"?—A. I explained that in Court at the first hearing.

Q. I am reading out everything you said. "Did you regard him as a gentle man, not altogether rough?—A. Yes, he would be gentle." 40

(Objected to by Mr. Shand. Mr. Cassidy objected to Mr. Shand's interruption. Mr. Shand referred His Honor to line 40 of the transcript of a previous hearing. His Honor then said: "I do not think your interruption is justified, Mr. Shand, and I ask you not to interrupt Mr. Cassidy on objections such as that.)

Mr. CASSIDY: I will read on. "Did you say he was rather a nice man?—A. No." Did you ever say that to any member of the staff, that he was rather a nice man?—A. Had I been asked something about him I may have made that remark. I could not say now. 50

Q. Was that your opinion at the time, that he was rather a nice man?—A. I do not know anything different about him.

Q. Of course the word “adored” is an extravagant word to use in regard to a doctor?—A. The way I meant it—

Q. Did not you mean it that way?—A. No, I did not. I certainly did not.

Q. You know of course that medical evidence in this case suggested that you were prone to very grave exaggeration? (Objected to; admitted.) You know the medical evidence suggested that the disease from which you suffered makes a woman prone to exaggeration, do you not?—A. I have no exaggeration.

Q. Did you know that was what the evidence suggested with regard to your complaint?—A. Yes, I have heard that.

Q. You are a lady of intelligence?—A. Yes, average intelligence.

Q. And you are able to follow it very clearly?—A. I do my best.

Q. You I think at that time gave an age that was not quite right?—A. I never gave any age.

Q. I am referring to the entry at St. Luke's. I think you are at the age now of 47?—A. 46.

20 Q. Just past the 47th, I suggest?—A. I do not know anything about that. I understand I am 46.

Q. You tell us, and of course what you say against Dr. Bell is that with that tube in he broke it—is that right?—A. The tube broke.

Q. He knew it was broken?—A. He must have known.

Q. He left it there?—A. Yes.

Q. When it was left there you did not feel it?—A. I had a dreadful pain in my neck for 18 months.

Q. You tell us that one day he pulled and it broke and he knew he had left it there?—A. He must have known.

30 Q. And he let you go out, you swore on the last occasion, knowing he had left it there?—A. I left the hospital—

Q. He knowing he had left the tube in your neck?—A. He must have known.

Q. If as you say you found a tube, which of course is lost you say, when you went back in 1939 you said to somebody that you adored him?—A. It was meant as no compliment.

Q. To whom did you say it?—A. I do not know—one of the nurses. They were saying how nice he was, and so on, trying to feel me to see what I would say.

40 Q. Who was the nurse you suggest was doing that?—A. I do not know the nurse's name.

Q. Can you give a name?—A. No.

Q. Do you remember the names of the nurses?—A. No. There was always a new one every now and again.

Q. We may take it that although you had that tube in your fingers that day, you lost it?—A. It dropped.

Q. You had picked it out of the excretion?—A. Yes.

Q. You had held it in your fingers?—A. Yes.

Q. In your left hand?—A. Yes.

50 Q. And it dropped?—A. Yes.

Q. You told Mr. Shand this morning that when you were in hospital you felt a pricking in May 1938 when you were in Quirindi—you felt a pricking and blood ran down your neck?—A. Yes.

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Q. You say you wiped the blood away ?—A. Yes.

Q. And threw the bit of cloth into the fire ?—A. Threw the wadding into the fire.

Q. So that no nurse saw that ?—A. I rang for the nurse before.

Q. No nurse saw it ?—A. They saw traces of it.

Q. You had wiped the blood and thrown the thing away ?—A. I still had blood around my chest I suppose. I would have traces of it. I had no way of washing it.

Q. Do you say the nurses saw it ?—A. They must have seen traces of it. 10

Q. Did they see it ?—A. How do I know ?

Q. You were not unconscious ?—A. No ; they must have seen it if they had any eyesight.

Q. Did you draw their attention to it ?—A. Certainly.

Q. What did they do to it ?—A. They told the doctor, and the doctor said not to probe the wound any more, and it was never probed after.

Q. It was not probed after—when did that occur ?—A. It was not, after that occasion.

Q. When did that occur ?—A. I do not know. 20

Q. But you remember it was in Quirindi Hospital ?—A. Yes.

Q. The first time in 1938 when you went there ?—A. I do not remember the date. I remember the occasion. I was too ill to remember dates at that time.

Q. Let me come along a little bit further. You knew in the last trial that two nurses were called who said you never . . . (Objected to as irrelevant ; admitted).

Q. You heard the evidence of two nurses that no such report was ever made to them, on the last occasion and the one before, did you not ?—A. From Quirindi. 30

Q. Yes ?—A. I do not remember it.

Q. Nurse Roberts and Mrs. Blundell ?—A. Mrs. Blundell was not there at the time that I remember.

Q. Nurse Roberts ?—A. I do not remember Nurse Roberts.

Q. Her name was Abberton then ?—A. I did not know Nurse Abberton. She was only there a while.

Q. Who was the nurse you complained to ?—A. One of the junior nurses on night duty.

Q. What was her name ?—A. I do not know.

Q. Quirindi is not a big place, and you were there a month at the hospital ?—A. It was one of the junior nurses who was on night duty. I do not remember the name. 40

Q. At what time of the night ?—A. Between 8 and 9 o'clock, I would say.

Q. Here for the first time in the whole of these proceedings you have given to this jury the statement that you wiped your neck to get rid of the blood, with a piece of cloth that you threw into the fire ?—A. With a piece of wadding. I think I have given that evidence before in Court.

Q. Will you swear that ?—A. I think I have.

Q. You have read your evidence over before you came here ?—A. No. I do not know anything about it. I do not know whether it is there or not. 50

Q. Is that serious?—A. Yes.

Q. Your evidence is made up in the form of big books, where every question you have been asked and every answer you have given is recorded?—A. I could not read all those books.

Q. I want you to give me your oath on this matter. Do you swear that in any of the other three trials you have ever said one word about taking a bit of wadding and wiping your neck and throwing it in the fire?—A. Yes, I think I have.

10 Q. Is that all you will do—you have?—A. I must have said it some time—it happened.

Q. If you have not said it up to now, it would look very much like as if it did not happen?—A. Yes, I think I said it in the first or second hearing, but I do not remember it in the third.

Q. We have a record of everything that has been said. If it is not there—(Objected to. His Honor remarked that Mr. Shand was right in his objection).

Q. If it is not there will you agree that you never said it?—A. I have said it.

20 Q. Before to-day?—A. Yes, I have said it before to-day. I have told my Counsel of it before to-day.

Q. Not your Counsel—any Court?—A. I think I have said it in Court.

Q. Is that all you will say, that you think you said it?—A. Yes—there has been so much said in Court. I have spent weeks here.

Q. I put it to you that since you have heard the nurses' evidence this new thought has occurred to you?—A. No.

30 Q. You knew it always?—A. Yes, certainly. Neither of those nurses were anything to do with me in the hospital. They saw me on one or two occasions just before I left. I would not say I knew Sister Abberton. They were strangers to me—I do not know them.

Q. How many nurses were there in the hospital?—A. I could not say.

Q. You had been there for three or four weeks in October 1937, again in May. Cannot you tell me how many nurses there were in that hospital?—A. No, I have no idea. I did not count them.

Q. The next thing I want to come to is this, this irruption into your mouth that you described took place at 3 o'clock in the afternoon—is that correct?—A. Round about 3. I could not say exactly.

Q. Your husband was not present?—A. Yes, he was present.

40 Q. When it took place?—A. Yes.

Q. That time, you say, you went unconscious with spasm?—A. Yes.

Q. I think you told these gentlemen you thought you were going to die?—A. Yes, I did.

Q. You did not send for the doctor?—A. I did not send for the doctor.

Q. Nor did your husband?—A. We had sent for him on many occasions—

Q. At that time—that was the most serious state, you tell us, you ever knew?—A. Yes.

Q. You did not send for the doctor, did you?—A. No.

50 Q. Look at this tube (formerly marked Exhibit 1). According to you that thing came through your tonsil?—A. No, not that thing.

Q. That is the thing you swore last time you did?—A. No, I did not.

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No. 6.
Stella
Eileen
Hocking,
30th
November
1943,
Cross-
examina-
tion,
continued.

*In the
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tion,
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Q. So that if I am putting to you that you swore that that was a fair representation of what came through last time, you would say that is wrong?—A. I do not know what I said last time.

Q. Have you not read up what you said last time about that little thing?—A. You have told me about it.

Q. Have not you read what you said about that little thing last time?—A. No, I have not.

Q. Do you tell me seriously you have not read it?—A. Yes. I do not know what I said, but I know that is not it—I did not say that.

Q. You drew that day a sketch of it?—A. Some time later, that 10 evening.

Q. On the afternoon when this came through, you tell these gentlemen that it burst through—those were your words?—A. Yes. My neck was terribly swollen. That is the way I would describe it.

Q. For days before did you not feel anything trying to force its way through?—A. No. My mouth was terribly swollen.

Q. You have had a splinter, I suppose?—A. Yes.

Q. In Quirindi you get grass seeds in the summer and you have had a grass seed in your finger, have you not?—A. No.

Q. You have had a little festering thing with a splinter or something 20 that has been coming out, at some time in your life?—A. Yes.

Q. You know that before it comes out you get the thing coming to a head for a day or so?—A. Yes.

Q. And you tell these gentlemen that you never had felt that thing till it came out?—A. I could not swallow.

Q. Did you feel it making a lump?—A. There was just one pain. I could not tell you where I was not in pain.

Q. Did you remain very bad?—A. Yes.

Q. You remained very ill on the day of this motion—that was the 5th October 1939. On the 5th were you still in a very low and bad 30 condition?—A. Yes, I was still very ill.

Q. You had not sent for the doctor in between?—A. The doctor was sent for—

Q. You had not sent for the doctor between the 2nd and 5th?—A. We sent for Dr. O'Hanlon on one occasion on the Saturday at 8 o'clock—

Q. The thing came out on the 5th—you did not send for the doctor until the Saturday?—A. I am trying to get you to understand why I did not send for him on that occasion. We had sent for Dr. O'Hanlon on a Saturday morning about 8 or 9 o'clock when I was seriously ill, and he 40 did not arrive until Sunday after 12 o'clock.

Q. Between the 2nd and the 5th October you did not send for the doctor?—A. This was a short time before.

Q. This thing that passed or is alleged to have passed, passed while your husband was away?—A. No—yes, I suppose so. I do not know whether he was away or not. He was not in the room.

Q. He did not see it?—A. No, he did not see it.

Q. I put it to you you did not send for Dr. O'Hanlon until the Friday night—the 5th was a Thursday, and the 6th a Friday—at the pictures on the night of the 6th October?—A. Yes. 50

Q. That is what you have sworn previously?—A. Yes.

Q. And that is correct?—A. Yes.

Q. You had not sent for him until that time from the time you allege you found this thing?—A. No. I was very annoyed with Dr. O'Hanlon for not coming when he was sent for.

Q. On that day, on the 5th, you say you were trembling so much that you dropped it?—A. Yes.

Q. Are you left-handed?—A. Yes.

Q. You do not write left-handed?—A. I write with my right hand, but I use the left hand for almost everything.

10 Q. Were you weak, trembling in your right hand?—A. Yes, I was very weak and trembling.

Q. That same day you drew this sketch?—A. It was late in the afternoon.

Q. Was it?—A. Yes.

Q. Is that right, late in the afternoon?—A. I did not draw the sketch as that is—

Q. That is the original sketch?—A. Yes, but that was finished up some little time after. It was only a few lines.

Q. You have sworn before that that sketch was drawn the same day?—A. Oh, yes.

20 Q. I want to come to it again. You remember the time you drew the sketch. How long after incident happened was it—that is the sketch I have in my hand?—A. It was not complete like that. The sketch I drew to show my husband was only just a few lines, and then after I filled it in and made it look more like it is.

Q. How long after?—A. I could not tell you when that was. That was some time the next day.

Q. Were you all right the next day?—A. No, I was in bed.

Mr. CASSIDY: Do you suggest you were trembling when you drew that sketch?—A. Not when I drew that.

30 His HONOR: When was that sketch made by you, the one the jury are looking at now?—A. That, as it is now, was done some time on the afternoon before Dr. O'Hanlon came.

Q. On Thursday afternoon?—A. Some time on Friday afternoon, the afternoon the doctor came. He came in the evening about 9 o'clock, and that was done, as it is now, some time on the Friday afternoon.

Mr. CASSIDY: Did you say a little while ago the evening before the doctor came?—A. No.

Q. Did you use those words "just in the afternoon before the doctor came"?—A. If I did it was a mistake.

40 Q. Do you say you did not say it now? (No reply.)

Q. Did you hear this interruption from the table, did you hear what Mr. Shand said from the table?—A. I don't know.

Q. Do you remember being cross-examined before His Honor Mr. Justice Street?—A. Yes.

Q. Do you remember on that occasion saying that afternoon you put your hand up and pulled the chain and it was directly over the pan?—A. Yes, I still say it; I am left-handed and the chain is on the right and I pulled it with my left hand and it is then directly over the pan.

50 Q. You pulled the chain with, not your right hand, but your left hand?—A. Yes.

Q. You pulled it across until you brought the chain over the pan?—A. No, just caught it by my left hand.

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Q. How did it get around over the pan?—A. It just comes down over the pan.

Q. An inspection was made, by a building inspector, of your house after that evidence was given? (No reply.)

Q. You know that a building inspector was brought to this Court to give evidence on the second trial?—A. Yes.

Q. You know that gentleman had inspected your lavatory accommodation?—A. Yes, I suppose he did.

Q. The fact is that if I am facing the cistern, the cistern is back to the wall and the bar extends out and the chain comes down at right angles 10 outside the right-hand part of the cistern?—A. Yes.

Q. If you pull the chain straight down then you miss the pan?—

A. You do if you pull it straight down with the right hand.

His HONOR: Does it make any difference which hand you pull it down with?—A. No, but I am left-handed and I pulled it down with the left hand.

Mr. CASSIDY: You remember swearing on the first occasion this— “ You tried to put your fingers in the ring?—A. Yes, I could not stand up straight or erect . . . I pulled it straight down ”?—A. I meant the way you would pull it straight down with the left hand. 20

Q. If you had pulled it straight down the thing in your left hand would not go in the pan?—A. My left hand was right over the pan and the seat was turned back.

Q. “ Does it hang over the pan . . . top of the pan ”?—A. Yes.

Q. According to you is the chain about the middle of the cistern?—A. No, on the side.

Q. Do you still say that the chain is straight over the pan?—A. I pulled the chain straight over the pan with my left hand.

Q. You told your husband, when he came home, that you lost it because you put it into the commode and emptied the commode down 30 the pan?—A. No, I did not.

Q. You know, you were in Court, that is what he swore that you told him—(Objected to—not allowed).

Q. Did you tell him that?—A. No.

Q. Did you hear him say it—(Objected to—not allowed).

Q. You discussed the matter of the pulling of the chain with your husband?—A. No, never discussed it before in Court.

Q. Had you not discussed with your husband this incident of the pulling of the chain?—A. It has been spoken about since the hearing where it was brought up. 40

Q. After the building inspector gave evidence?—A. No, I don't remember whether it was after or before.

Q. Do you remember it being dealt with at very great length in the first trial?—A. Yes.

Q. Do you remember the Judge asking you a great number of questions about it?—A. No, I don't remember the questions.

Q. I want to pass next to this—did you tell us at the time of the eruption about a kind of retching?—A. No.

Q. There was no retching or vomiting?—A. No.

Q. It just burst out?—A. It burst out and I swallowed it. I was 50 coughing before it burst because my throat was constantly tickling; it was so swollen.

Q. You remember that your sketch makes it what you have described at about two inches long, the tube?—A. I suppose it would be, but I did not measure it.

Q. Two wires, one longer than the other?—A. Yes.

Q. And the second one was shorter?—A. Yes.

Q. You told us that you charged Dr. Bell with knowingly leaving this tube in (page 22). "According to you you allege that Dr. Bell knowingly left this tube in your throat and allowed you to leave the hospital. Is that right?—A. Yes. Q. Is that your allegation against

10 Dr. Bell?—A. Yes."?—A. He must have known, yes.

Q. That is what you said last time, that was your allegation?—A. Yes.

Q. You wrote to Dr. Bell on 11th October?—A. About 10 or 11 days after the incident.

Q. Were you right then?—A. Yes, I could write a little.

Q. Were you feeling well then?—A. No, not very well, still in bed.

Q. Were you very ill?—A. Yes, I had not been out of bed.

Q. Is this the letter you wrote (showing Witness part of Exhibit F). That is your writing?—A. Yes.

20 Q. Were you still unwell and shaky when you wrote that?—A. I was not so shaky, but I was still very ill.

Q. You have recovered somewhat?—A. Yes, slightly.

Q. By the 26th October when you left for Sydney had not you recovered more?—A. I was still ill, so ill that Dr. Cooper thought it best I come to Sydney.

Q. On the 11th you knew that Dr. Bell had done this terrible thing to you?—A. Yes.

Q. You said then that you did not blame him or the hospital?—

30 A. No, I did not think I would ever live to reach the hospital; I was so ill.

Q. This letter is a very well-written letter?—A. Yes, but I was still very ill.

Q. Did you mean what you said when you said that you did not blame him or the hospital?—A. Yes, as far as I remember now I suppose I did.

Q. You did not blame him or the hospital—you intended that when you wrote it?—A. Well, as far as I remember.

His HONOR: You meant it?—A. Yes, as far as I remember now.

40 Mr. CASSIDY: This was the man whom you alleged had put this tube in you and left it there?—A. I was too ill to go into detail about my illness, about what he did and did not do.

Q. You went into considerable detail in that letter?—A. That was written at a time when I felt a little better.

Q. You stayed in Sydney for some time in St. Luke's and then at Manly?—A. I was at Manly for a month.

Q. You came out of St. Luke's on 3rd November 1939?—A. I don't remember the date.

Q. You stayed a month after coming out of hospital?—A. As far as I remember around about that.

50 Q. You saw Dr. Ritchie only once then?—A. They asked me to call before I went home and I was too ill to go across until just before I went home.

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Q. When did you go home?—A. I don't remember the date.

Q. You said you were too ill to go across from Manly until before you went home?—A. Yes.

Q. How many days before you went home?—A. A day or two.

Q. You stayed a month?—A. I don't remember the time I stayed.

Q. Didn't you suggest a month?—A. I said somewhere around about a month, three or four weeks.

Q. You were in Macquarie St. in Dr. Ritchie's rooms on 10th November, within a week of coming out of hospital?—A. I think longer than that. 10

Q. You had Dr. Ritchie's prescription of that date, when you saw him in his rooms?—A. Yes.

Q. Is that right, you were too ill to come from Manly till two days before you left?—A. I was up and down, sometimes I felt a little better and others not—I was very sick—but I remember waiting till I felt well enough to go in.

Q. You made no charge against Dr. Bell at that time?—A. I don't remember.

Q. It was not until you came to the show in April 1940 that you made a suggestion against Dr. Bell?—A. Yes. 20

Q. Have you been entirely free of exaggeration since that tube was removed?—A. Yes.

Q. In April 1941, from the 3rd to the 17th, you saw Dr. O'Hanlon on three occasions?—A. I don't remember the dates.

Q. You then told him that your husband was tampering with your food?—A. No, I did not.

Q. Did you tell him anybody was tampering with your food?—A. I did not tell him anybody was.

Q. Have you not sworn before that you told him that someone was tampering with your food—poisoning it?—A. No, I did not. 30

Q. You have never sworn that, is that what you tell the Court?—A. Yes.

Q. You tell the jury that?—A. Yes.

Q. Have you said this: "You went to the doctor in April 1941, and did you say this, someone is tampering with my food"?—A. No, I never went to him.

Q. Did you say that?—A. I said there was something the matter with the milk.

Q. On one trial did you use the words, somebody was tampering with your food, trying to do away with you?—A. No, that was cross-examination, I did not say that. 40

Q. Would it be correct that somebody was tampering with your food?—A. All I say is that there was something the matter with the milk that made me ill.

Q. Do you remember being asked was not the only person in the house your husband?—A. Yes.

Q. Who was it that you were suggesting was tampering with the milk?—A. I did not suggest anybody was tampering with the milk.

Q. Did the doctor remonstrate with you for that remark about your husband. (Objected to—not allowed.) 50

Q. I suggested you swore this on the last occasion at line 35, on p. 27: "Have you suggested that your food was being tampered with?—A. I

have suggested it " ?—A. If you mean that there is something the matter with it then I suggested it.

Q. " Do you suggest it was 1941 or 1940 ?—A. 1940, I think " ?—A. I don't know the date.

Q. " At that time you had completely recovered from your previous illness ?—A. Yes." Do you remember saying that ?—A. Yes.

Q. " The only persons living in the house in Quirindi were yourself and your husband ?—A. Yes." You suggested that somebody had put poison in your food and you said : " No, not poison " ?—A. No, it was not
10 poison, I don't know what it was.

Q. Is that what you swore last time ?—A. Yes.

Q. " Are you serious ?—A. Yes." Then His Honor said : " Something," and you said " Something in my food." Then it goes on : " I asked you you are not in any way honest . . . why did you charge your husband with attempting to poison you ?—A. I did not." Is that what you said ?
—A. Yes.

Q. " Didn't you say that he tampered with your food ?—A. No.

Q. Did you ever suggest somebody tampered with your food ?—A. Yes." That is right ?—A. I may have done but I did not mean it.

Q. " Did you mean by that poison it ?—A. Yes " ?—A. I did not think that, I did not know what was in the milk.

Q. " Do you admit that that is the evidence you gave ?—A. I could not say poison, I don't know what it was." Did you say that ?—A. Yes.

Q. " Do you admit that that is the evidence you gave ?—A. Yes, but that is not what I meant." Is that right ?—A. I did not mean poison, I say it was poison, I did not know what was the matter with the milk.

Q. You went to the doctor about it ?—A. No.

Q. You got the doctor to see you ?—A. I was feeling very sick and my husband was away and the doctor was called.

Q. You were at the age of 45 then ?—A. I don't know.

Q. Did you say to the doctor that your husband had drugged you and you were pregnant because your husband had taken advantage of you while in a drugged sleep ?—A. No.

Q. Did you tell him you were pregnant ?—A. No.

Q. Have you told him you were pregnant ?—A. No.

Q. Did you think you were pregnant ?—A. I don't remember.

Q. You have been asked this before ?—A. I don't remember being asked the question before.

Q. Could you forget it ? (No reply.)

Q. Do you say you have never been asked that question before ?—A. I don't remember the question before.

Q. Could you forget it ?—A. I suppose I could.

Q. But would it not be a hideous question, wouldn't it imprint itself on your memory ?—A. I have heard a lot of things in this court that are quite hideous.

Q. Do you tell me that you have never been asked about pregnancy before ?—A. I don't remember it.

Q. Have you never heard it suggested before ?—A. No.

Q. You know that you suggested to the doctor you were pregnant
50 because your husband had taken advantage of you when you were in a drugged sleep ?—A. No, I don't.

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Q. Did you speak to the doctor about being pregnant?—A. I don't remember talking to Dr. O'Haulon in that manner.

Q. Come back to the question of poisoning: "Doesn't that mean you were suggesting someone was trying to murder you?—A. Well, I suppose it does"?—A. I don't remember that.

Q. If that answer was given would it be true?—A. No, it was not true, I had not thought that.

Q. His Honor then put to you this: "Mr. Reimer has put to you that you suggested someone must have been trying to do away with you and did you honestly believe it. You agree with the question put by Mr. Reimer and you said, 'Yes I suppose I did'." Was that right?—A. I must have misunderstood. 10

Q. "Before my asking you this I suppose you were quite serious at the time and you honestly believed this matter that was being brought forward" and your answer to that was "Yes"?—A. I don't remember.

Q. "You still believe it now?—A. Yes." Will you swear you did not say that?—A. I don't remember anything about that, just saying there was something the matter with the milk and I still say so—I don't know when it was.

Q. "Do you remember giving that evidence?—A. Yes." Did you say that. Then "Is that true?—A. Yes"?—A. I don't remember. 20

Q. You know that this matter was dealt with at length on the last occasion, about your husband?—A. No, I don't remember it on the last occasion being dealt with so much.

Q. On every occasion?—A. No, on some occasions more than others.

Q. "Do you still believe to this day that someone was tampering with your food, poisoning it"? And did you say "Yes"?—A. No, I don't remember saying that.

Q. Will you deny you said it?—A. No, I may have said it on a misunderstanding. 30

Q. "Did you mention it to the police"?—A. I remember that.

Q. You don't remember the other?—A. No, I don't remember all about the other.

Q. "Did you take any steps to get protection from anybody?—A. No"?—A. I said "No" to the questions you have asked; I don't know what I said before.

Q. In October 1940 Dr. Marsh saw the inside of your throat?—A. When I was in St. Luke's Hospital he did.

Q. Dr. Marsh had a conversation with you about your throat immediately after looking inside it?—A. No, he did not. 40

Q. Did you say there was a hole in your throat then?—A. I did not know it, not then.

Q. Hadn't you looked?—A. No, I could not look then.

Q. Why?—A. I had nurses painting my throat—

Q. Then you got Dr. O'Haulon to have a look?—A. No.

Q. Didn't you look yourself before you left Quirindi?—A. No, my mouth was swollen on the inside and I could not see inside.

Q. Dr. O'Haulon looked at your throat and had he taken an X-ray—he looked inside the day he took the X-ray?—A. No.

Q. He took you to the hospital and took an X-ray?—A. Yes, not of my throat. 50

Q. The X-ray showed no swelling of your neck—(Objected to).

Q. You have seen the X-ray ?—A. Yes, in Court.

Q. It shows the outline of the neck—(Objected to).

Q. On 7th October, the same week, was your throat terribly swollen ?
—A. After the drain left my throat it went down a lot and the swelling went down and it got worse again and I had abscesses coming in the throat.

Q. On the 7th it happened to be in one of the stages when it was down ?—A. It was not quite so swollen as before.

Q. Can you remember that ?—A. I did not look in the glass.

10 Q. Between the 2nd and the 7th it had gone down and then it came up again ?—A. Yes.

Q. When you had it X-rayed had it come down on that day ?—A. I could not say, I did not look in the glass.

(Further hearing adjourned till 10 a.m. Wednesday,
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IN CAUSES.

Coram : EDWARDS, J., and a Jury of Four.

HOCKING V. BELL.

Second day—Wednesday, 1st December 1943.

20 PLAINTIFF :

Cross-examination continued :

His HONOR : Mr. Shand, I have read the transcript at page 33, and I want to apologise to you. I made a mistake ; I overlooked what the transcript says. I was quite wrong. I quite missed that statement by Mr. Cassidy.

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tion,
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30 Mr. CASSIDY : Do you remember last night I asked you had you ever heard it suggested before about your talking of pregnancy to Dr. O'Hanlon. Do you remember my asking you last night this question—“Have you never heard it suggested before”—this is at the top of page 46 ?—A. I don't remember. (Objected to : pressed : admitted.)

His HONOR : Ask your questions.

Mr. CASSIDY : Now, do you remember that I went on to ask you whether you had ever been asked about pregnancy before ?—A. I don't remember it.

Q. Did you have a discussion about it last night ?—A. No, I did not. I thought no more about it.

Q. Is that right ?—A. Yes, that is certainly right.

Q. You thought no more about it ?—A. Yes.

40 Q. You knew that I had put to you yesterday that you had told the doctor that your husband took advantage of you while you were in a drugged sleep ?—A. I thought that question was answered and done with.

Q. But you remember that I had put that to you ?—A. I remember the question, but I thought no more about it. I thought that I had answered that question and it was done with.

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tion,
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Q. Of course if it was said by you, it is quite wrong, isn't it?—

A. I did not say it. (Objected to.)

Q. You understand what I mean, don't you?—A. Well, I don't understand you clearly.

Q. You don't understand?—A. No.

Q. If you said to the doctor, or if you suggested that your husband had taken advantage of you while you were in a drugged sleep, that would be quite wrong, wouldn't it?—A. Yes.

Q. And there would be no foundation in fact for it, would there?—

A. There would not be, I suppose. 10

Q. There would not be you suppose?—A. I don't know about it. You make up these questions in Court and I don't know anything about it.

Q. But you have been asked about it before?—A. Yes, but I don't know how to answer these things.

Q. But if you suggested it——A. I did not suggest it.

Q. But if you suggested it, that statement would not have any foundation in fact, would it?—A. Mr. Reimer suggested it.

Q. But if you suggested it, that statement would not have any foundation in fact, would it?—A. No.

Q. And if you did say it, is this the position, that you must have 20 imagined it? (Objected to : pressed.)

His HONOR : Doesn't that follow as a matter of course?

Mr. CASSIDY : It must have been imaginary? (Objected to : pressed.)

Q. Do you remember going to see Dr. O'Hanlon and speaking to him about being pregnant?—A. No, I never ever went to Dr. O'Hanlon.

Q. And never at any time spoke to him about being pregnant?—A. Well, I think it is one of the very first questions a doctor will ask of a woman.

His HONOR : Just answer the question?—A. I have answered it 30 so many times.

Mr. CASSIDY : It is a question he may have asked you?—A. He may have. I did not ask him that question.

Q. Why did you go to see him?—A. I did not go to see him.

Q. What was he attending you about?—A. I don't know what occasion you are talking about. It may have been when he came to give me an injection.

Q. I am talking about between the 3rd April 1941 and the 17th April 1941?—A. I don't remember the dates.

Q. The first trial, you remember, was held in December 1941. Do 40 you follow?—A. Yes.

Q. And this conversation, I put it to you, took place in April 1941. Your memory then was quite good, I should imagine, was it?—A. Yes.

Q. Was what you said then true?—A. I did not say that. My word is as good as Dr. O'Hanlon's.

His HONOR : The evidence you gave in December 1941 that is the question you are being asked, was the evidence you gave then true? Just listen to the question and answer it?—A. I suppose it was. I don't know what you are referring to.

Mr. CASSIDY : I want to put to you that you admitted that on one occasion you spoke to him about pregnancy. You just told me you didn't—didn't you?—A. Well, not at that time, I didn't.

Q. What?—A. I don't remember at that period.

Q. Well, did you at some time then?—A. Well, I don't remember if ever I did. I may have done, but not then or any time.

Q. But you told us you had never consulted him before 1937, didn't you?—A. Well, I don't know when he was first called.

Q. But didn't you tell us that your first illness was in 1937?—A. Yes.

10 Q. And that was the first time you had ever consulted him?—
A. Yes.

His HONOR : And was that correct?—A. Yes, that was correct.

Mr. CASSIDY : Now I want to read you the question put and your answer. This is at the bottom of page 52 of the first trial—the last line of page 52. “Q. Then you thought you were pregnant?—A. Not when I went to see Dr. O'Hanlon.” (Objected to : pressed.)

Q. “Then you thought you were pregnant.” (Objected to.)

20 Q. “No, not when I went to see Dr. O'Hanlon.” “Did you ever tell him that?” and your answer was : “Yes, on one occasion away back.” Is that true?—A. I don't remember it, really.

Q. Madam, is that what you swore?—A. Yes, I suppose I did, but I don't remember the occasion now.

Q. “Did you tell him on that occasion that your husband had done things that were improper to you.” (Objected to.)

Q. “Did you make a charge on that occasion against your husband,” and your answer was : “No, not when I went to see Dr. O'Hanlon.” Did you say that?—A. I suppose I did, but I have never made such a charge.

30 Q. “Do you mean you did that on some other occasion,” and your answer was “Doctor came to see me on some other occasion”?—A. Well, I suppose I did, because doctor always came to see me ; I did not go to see him.

Q. “This year,” and your answer was : “It would be early this year.” “That is 1941,” and your answer was : “It would be early this year.” Is that true?—A. Yes, he may have come, but I forget now what it was about. It was not that, anyhow.

Q. Now, I want to come now to the next occasion you were asked about. This is on page 47. Your Honor, I am taking it that these are going to be admitted without formal proof.

His HONOR : Is that right, Mr. Shand?

40 Mr. SHAND : Certainly.

Mr. CASSIDY : “May you also have told him at that time that your husband had drugged you to take advantage of you,” and the answer you gave to that question was “I don't know.” Was that a true answer?—A. Perhaps I did not understand what you were talking about.

Q. Really? You were quite well when you gave it? This was given in December 1942—in August 1942. There was nothing wrong with you then, was there?—A. No.

Q. Do you say that that is your answer—that you may not have understood the question?—A. I may not have.

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Q. Will you listen to the next question: "Do you remember the occasion the doctor came to see you." Your answer was, "Yes." That was true?—A. Yes. I remember him coming to see me on many occasions.

Q. "Do you remember the interview to which I am referring," and you said "Yes." Is that true?—A. I may have said "Yes."

Q. Well, was it true?—A. No, I can't say that I do. I cannot remember now, really. I just don't remember it.

Q. But that question you could not misunderstand, could you?—
A. Oh, I don't know. 10

Q. That question you could not misunderstand, could you? You could not misunderstand that question?—A. Well, I don't know. I might. It is very easy to misunderstand.

Q. At that time you also said that your husband was assaulting you, did you not?—A. No. I did not say he was assaulting me. He asked me had he ever hit me. He was talking about his domestic troubles.

His HONOR: Dr. O'Hanlon was talking about his domestic troubles?
—A. Yes.

Mr. CASSIDY: Madam, that is the first time you have ever mentioned anything like that?—A. Well, Dr. O'Hanlon's domestic affairs. 20

Q. Have you ever made that suggestion before this case started?—
A. No. (Objected to.)

Q. You have never made that suggestion in the whole of this case before?—A. No. It is not the Court's business.

Q. If you did say that your husband was assaulting you, that too would be wrong, would it not?—A. Oh no, that would not be wrong. I did not say assaulting me. I said he hit me.

His HONOR: If you did say that your husband was assaulting you that would also be wrong? Listen to the question. Mr. Cassidy used the word "assault"?—A. Well, I did not use the word "assault." I think 30
the word "spanked" was used. The word "assault" has been used in Court.

Mr. CASSIDY: Was that because you were playing up?—A. No. (Objected to.)

His HONOR: I will tell the jury that they are not to take any notice of any remarks that Mr. Shand makes sotto voce, and I ask Mr. Shand not to make any more remarks sotto voce.

Mr. CASSIDY: Madam, you have used the word "spanked" for the first time now?—A. I said when Dr. O'Hanlon was talking.

Q. You have used the word "spanked" for the first time in the whole 40
of these trials?—A. Yes, because you have used the word "assault."

Q. But you did tell the doctor he was assaulting you?—A. No.

Q. Did you tell the doctor he was spanking you?—A. I said he had spanked me.

Q. When?—A. I don't know just when.

Q. You don't know when?—A. No. He has done it.

Q. Just give us an idea when?—A. I have no idea when.

Q. Ten years before?—A. No.

Q. Just a couple of months before the doctor saw you?—A. I could not say that. 50

Q. Well, what were you referring to?—A. We were just having a friendly talk.

Q. But how far back were you referring?—A. I could not say I had never been spanked.

Q. How long before that incident had you been spanked?—A. I could not say how long.

Q. What—in 1940?—A. I could not say just when it was.

His HONOR : 1941 you are referring to, aren't you ?

Mr. CASSIDY : Was it in 1940 that you had been spanked?—A. I have no recollection just at the moment when it was.

Q. Or the circumstances?—A. Some argument, I suppose.

Q. I want to read you a little further. This is at page 48. I want to read you this question, and I want you to listen to it and listen to the answer. (Objected to.) "Are you prepared to admit on that occasion that you did suggest to Dr. O'Hanlon that your husband had been assaulting you or not." That is the question, and your answer was : "Yes, I may have said it" ?—A. Yes.

Q. "Are you prepared to admit that you did say it to Dr. O'Hanlon," and your answer was : "I may have said it." "Has your husband ever assaulted you," and your answer was : "I suppose most husbands do." That is the answer you gave, isn't it?—A. Yes.

Q. Then His Honor asked a question : "You were asked did you tell the doctor your husband had assaulted you?" Your answer was : "Doctors often jokingly"—"jokingly or seriously did you say that in any shape or form." Your answer was : "I may have done, but I could not say." "Was it a fact that your husband had assaulted you," and your answer was : "Well, my husband has hit me." Did you say that?—A. Yes.

Q. "He has assaulted you at times," and your answer was "Yes." "Hit you," and your answer was "Yes." "Did your husband hit you more than once or not," and did you answer "Yes." Was that true?—A. Yes.

His HONOR : First of all, did you answer that "Yes" ?—A. Yes.

Mr. CASSIDY : And is that evidence correct?—A. Yes, that would be correct.

Q. Now I want to come back to 1939. In October 1939 when you came to Sydney you say that Dr. Bell did not examine your throat; is that so?—A. No, not until five days after I entered the hospital.

Q. Are you suggesting by that that he did not want to?—A. I don't know.

Q. You don't know?—A. No.

Q. Dr. Marsh, a throat specialist, saw you, did he not?—A. Yes, on the 5th day.

Q. You know that he is a very eminent gentleman? (Objected to.)

Q. He examined your throat?—A. Yes; that is the second time.

Q. And looked at it carefully?—A. He examined my throat.

Q. Did you suggest the last time that Dr. Bell kept you for five days so that he could not see it?—A. Well, I was there for five days before a throat specialist came to see it.

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Q. That is what you suggested, isn't it, that Dr. Bell definitely kept you for five days so that the doctor could not see your throat?—A. No, I did not.

Q. Do you suggest it now?—A. Well, I don't know why I was kept.

His HONOR: That is not an answer to the question. Do you suggest that he deliberately kept you for five days so that the doctor could not see your throat?—A. No, I could not say deliberately because I don't know why he did.

Q. Answer the question yes or no. Listen to the question and answer the question and not get on to a side track——

10

Mr. CASSIDY: I want to read to you now what you said before. This is on page 30, line 26, at the third trial—"You charged Dr. Bell with deliberately getting Dr. Marsh to examine you after the wall of pus had gone," and you answered "Yes"?—A. Well, it looked very much like it.

Q. So you did make that charge then? (Objected to; pressed.)

Q. Do you remember this question also—"And your allegation is that in St. Luke's Hospital they gave you this cruel treatment under the direction of Dr. Bell, for the purpose of removing the pus." Did you answer that "Yes"?—A. Well, I don't know the treatment. It was "Yes," I suppose.

His HONOR: The question is "Do you recollect that question being asked"?—A. No, I don't recollect the question being asked.

Mr. CASSIDY: Well, would that be the answer you would give now to that question?—A. Yes, I suppose it would be.

Q. And did you give it before?—A. I don't remember answering the question before.

Q. You realise that that is a very grave charge to make, do you?—A. I did not make a charge.

Q. You did not make any charge?—A. No, I did not.

30

Q. Do you now?—A. Well, I suppose in a sense I do.

Q. Have you decided to make that charge since Mr. Shand came into the case?—A. No.

Q. What?—A. No.

Q. When did that charge first occur to you. Do you say now? (Objected to; pressed)?—A. I did not know that there was any charge.

Q. I want to read you now what you said to your own Counsel on the second trial, about this matter. This is at the top of page 11—"Do you remember Dr. Seward Marsh?—A. Yes, I remember him coming.

Q. Before he came, did Dr. Bell say anything about his coming?—A. No, not until the fourth or fifth day I was in the hospital." Do you remember giving that evidence?—A. Yes.

40

Q. "I told Dr. Bell that the wall of pus had been cleared out of my throat, so he suggested then that I see Dr. Marsh"?—A. Yes, that is right.

Q. Now you know that your Counsel put in the hospital records of St. Luke's during your period in the hospital there?—A. Yes.

Q. Did you charge St. Luke's Hospital that, in addition to being cruel, they did not give you proper food?—A. I made no charge against the hospital.

50

Q. Did you say it?—A. No, I don't remember.

Q. Will you swear you did not?—A. I didn't eat very much when I was in St. Luke's Hospital on the last occasion.

Q. You didn't eat much?—A. No.

His HONOR: It is not a question of whether you ate very much. The question is did they give you enough to eat?—A. Well, Your Honor, they used to bring my dinner in and I could not eat it, so the nurses would take it away and say that they would have it themselves. So that is what happened to the food.

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10 Q. So that the nurses were starved—is that the suggestion?—A. No. Perhaps it was a little better than what they were getting themselves.

Mr. CASSIDY: Your hospital records that you put in show that you were having a full diet?—A. Yes, the full diet was brought in and the nurses took it out when I did not want it.

Q. So that an untrue entry was made on your card?—A. No; the entry left the kitchen all right.

Q. So that the entry on your card showing that you had a full diet means that it left the kitchen all right?—A. Well, the food was brought in, but I did not eat it on occasions.

20 Q. You did not eat it?—A. No, I did not eat it.

Q. What do you say was the only food you had there? (Objected to; rejected.)

Q. What food do you say you had there?—A. I had milk, and I remember having arrowroot biscuits soaked in milk.

Q. Is that all?—A. Well, I don't remember having anything else there—not at St. Luke's Hospital.

Q. So your period there was limited to your eating that food?—A. Well, I ate very little. I may have had a little porridge and milk.

His HONOR: Which visit to St. Luke's are you asking about now?

30 Mr. CASSIDY: This is October 1939.

Q. Now, I am still on this question of charges that you make against people. You know that in the last case the evidence was that people who suffer from hysteria—(Objected to).

His HONOR: I have not heard the question yet.

Mr. CASSIDY: Will make charges of a serious nature against people? (Objected to.)

His HONOR: Just give the question again.

Mr. CASSIDY: You heard in the last case that people in the condition of hysteria will make imaginary charges—

40 His HONOR: That people suffering from hysteria?

Mr. CASSIDY: Yes.

Q. Will make imaginary charges of a serious nature against people?—A. I heard a lot—(Objected to; pressed).

His HONOR: Wouldn't it be possible to ask the question this way—"You know, don't you, that people suffering from hysteria"—

Mr. SHAND: I would not object to that.

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Mr. CASSIDY: I will put it that way. You know, do you not, that people suffering from hysteria make grave and serious charges against persons?—A. No, I do not know it. I have heard it, but I could not say that I know it.

Q. You heard your own doctor, Dr. Thompson, speak of the effects of the condition known as thyro toxicosis, did you not?—A. Yes.

Q. And you heard him admit that. (Objected to; not pressed.)

Q. You gave evidence in 1942 of the treatment of Dr. Bell of you in hospital when you were there in 1939. Now, I want to come again to April 1941. This is the second trial, at page 39, about the middle of the page. "Did you ever suggest that someone had tampered with your food"?—A. No. 10

Q. The answer was "Yes." Is that true?—A. If I said "Yes" to that, but I did not really suggest that anyone was tampering with the food.

Q. If you said "Yes" to that question, it would not mean that you misunderstood it, would it?—A. Well, it may have been. I just don't remember the question being asked.

His HONOR: Well, is it correct now that you ever suggested that anyone tampered with your food?—A. No.

Mr. CASSIDY: Although you answered that question in the affirmative on the second trial? You answered that question "Yes" at the second trial?—A. I may have done. 20

Q. I want to come now to the third trial—page 27, line 35—"Have you suggested that your food was being tampered with," and your answer was "I have suggested it." Is that right?—A. That may be. I don't remember answering the question.

Q. If you did answer: "I have suggested it," would that have been a true answer?—A. I really could not say.

His HONOR: What?—A. I don't know, your Honor. I don't remember the question being put to me. 30

Q. But assuming that the question were put to you, "Have you suggested that your food was being tampered with," would it be a true answer if you said "I have suggested it"?—A. I may have suggested it.

Mr. CASSIDY: "The only persons living in the house at Quirindi were yourself and your husband," and you answered "Yes"?—A. Yes.

Q. Now, on the next page, page 28, line 30— (Objected to.)

Q. I am going to put it all in, Mr. Shand—the whole of her evidence. (Objected to; pressed.)

Mr. CASSIDY: I submit that I have the right to proceed with my cross-examination? 40

His HONOR: Yes, ask your question.

Mr. CASSIDY: At line 5 the question you were asked was: "You were not in any way influenced by something you were merely imagining," and did you answer to that "No." Do you remember that?—A. Yes.

Q. Then you were asked: "Why did you charge your husband with attempting to poison you"?—A. I did not.

Q. You said "I did not." Here are the next questions. "Did you not say that he tampered with your food," and your answer was "No." Do you remember that?—A. Yes.

Q. "Did you ever suggest that somebody had tampered with your food," and your answer was "Yes" ?—A. Yes.

Q. "Did you mean by that, poisoned it," and you answered "Yes" ?
—A. Well, I may not have meant the "yes."

Q. But you know what the word "poisoned" means, madam ?—

His HONOR : Did you on a previous occasion, to the question :
"Did you mean by that poisoned it," answer "Yes." Do you remember
swearing that ?—A. No.

10 Q. If you did swear it, was it true ?—A. No. I may not have
understood it. (Objected to ; pressed.)

Mr. CASSIDY : I am going straight on—

His HONOR : The next question is : "Do you admit that as the
evidence you gave." She does not answer that.

Mr. CASSIDY : "Do you admit that as the evidence you gave" ?
Your answer was "Yes, but that is not what I meant." You were asked
"Is it correct," and you answered "Yes" ?—A. Yes, I suppose so, if it
is there. I don't know.

20 Q. At line 30 His Honor asked you a question—"Having heard that
question and the answer given by you, is there any mistake about it."
Your answer was : "I don't say that anybody is trying to murder me."
"You heard the answer you gave," and you said "Yes." His Honour
said : "Doesn't that mean that you suggested somebody was trying to
murder you" and you answered : "Well, I suppose it does" ?—A. You
have no idea how trying Mr. Reimer was.

His HONOR : Answer the question ?—A. I hadn't any idea.

30 Mr. CASSIDY : That was not Mr. Reimer ; that was to His Honor,
"Well, I suppose it does." Madam, of course those suggestions are
absolutely without foundation—any suggestions that your food had been
tampered with to poison you ?—A. Mr. Cassidy, you have made a lot of
suggestions.

His HONOR : Answer the question.

Mr. CASSIDY : Those suggestions are without foundation ?—A. I
don't know where you got the "imaginitis" from.

Q. You don't know where I got it from ?—A. No.

Q. And has it just occurred to you that it is my imaginitis ?—A. Well,
the things that you have stated I have never heard of.

Q. But you admitted that you had been to Dr. O'Hanlon ?—A. I
had never been to Dr. O'Hanlon.

40 Q. That is very clever—that Dr. O'Hanlon had come to see you ?
(Objected to.)

Mr. SHAND : That is what we expect from the doctors in this case.

His HONOR : Mr. Shand, if you make such remarks like that I will
have to take another course. That is most improper.

Mr. CASSIDY : Madam, I meant when Dr. O'Hanlon visited you
professionally at your home. You knew I meant that, didn't you ?—
A. No, I did not know when you did not say.

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Q. Now, on page 28 I omitted something at the bottom—the third trial. Do you remember my asking you this question—“I suppose you were quite serious at the time, and you honestly believed this matter that was being brought forward,” and you answered “Yes,” to that, did you not?—A. What matter was brought forward?

Q. That was tampering with the food?—A. I think I explained that there was something the matter with the milk. I don't know what it was.

Q. “I suppose you were quite serious at the time, and you honestly believed this matter that was being brought forward,” and your answer was “Yes.” That was your answer, was it not?—A. I don't know. 10
I don't remember the answer at the time.

Q. If you did answer “Yes” would that have been true?—A. Well, I hardly understand you, Mr. Cassidy.

Q. The suggestion that somebody was tampering with your food—you honestly believed that that was being brought forward?—A. No. A person might joke about things, but they don't actually believe them.

Q. So if you said you did believe it, that would be untrue, would it?—A. No. I believe there was something the matter with the milk.

Q. I will read the next question—“You still believe it now,” and your answer was “Yes”?—A. Yes. 20

Q. And that, you say now, you limit to something wrong with the milk?—A. Yes, there was.

Q. “Do you remember giving that evidence,” and your answer was “Yes.” The next question was “Is that evidence true,” and your answer was “Yes.” Then you were asked “Do you still believe to this day that somebody was tampering with your food—poisoning it,” and you answered that question “Yes,” did you not?—A. I cannot say what I answered it.

Q. If that is your answer on that occasion, was that a true answer?—A. I don't think anyone was trying to poison me.

Q. So that if you said “Yes” on that occasion, that would be an untrue 30
answer?—A. Well, it would be an answer I did not understand.

Q. But there would be no foundation for that answer, would there?—A. Oh, I could not say no foundation when there was something the matter with the milk.

Q. “Do you still believe to this day—This is the 10th December 1942—“Do you still believe to this day that somebody was tampering with your food—poisoning it,” and your answer was “Yes”?—A. You are speaking of the last hearing? Well, at the last hearing I was very ill, and I don't remember anything about it. I was ill on the cross-examination 40
day.

Q. Do you say now that you did not know what you were saying?—A. Oh, I did know what I was saying, but I was very ill and I don't remember what I was saying. I just don't remember the questions.

Q. Were you all right at the second trial?—A. Yes.

Q. And at the first?—A. Well, I was not very well at the first. I was rather nervous at coming to the Court the first time.

Q. But you were used to it at the third?—A. No. The fourth time I am not used to it; I haven't yet.

Q. Haven't you said that you enjoyed the Court?—A. No, I did not.

Q. Didn't you say in Quirindi that you wore a new dress every day?— 50
A. No, I did not.

Q. And that you liked it ?—A. No, I did not. I haven't said anything about that. I don't like the Court, and I would not be likely to say that I did.

Q. Did you leave it yesterday afternoon smiling all over your face as you walked along the street ?—A. It would not be well for me to be crying all over my face, would it ?

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Mr. CASSIDY : On the second trial you told me that you were well. I want to put what was put to you on that occasion about the very same matter—"And I suppose you realise that this was a very serious charge
10 to make against anyone ?—A. I did not make a direct charge." You understood that question very well, did you not ?—A. Yes, I have not made a charge.

Q. You understood that question, you fully understood that question at that time ?—A. I suppose I did. I don't remember it.

Q. "Do you realise it is a very serious thing to say that your food is being poisoned or tampered with"—you understood that question ?—
A. I did not say it.

Q. I am reading to you what the record says ?—A. Yes, but it is—
In cross-examination they bring out all these things.

20 His HONOR : This is the question you were asked and the recorded answer that you gave—do you deny the record ?—A. No, I cannot.

Mr. CASSIDY : This is the next one : "You realise that implies that someone is trying to do away with you, murder you ?—A. I suppose so" ?—A. I did not mean that I was saying so, I meant that if anyone suggested it it would be so.

Q. I want to pass now to the removal of the tube in hospital. At the time the tube was removed the wound in your neck had not healed, had it ?—A. I don't suppose it had.

Q. You know that the hospital records show that it was on the
30 17th March ?—A. I don't know the date.

Q. You said yourself yesterday that it was three or four or five days after the operation ?—A. I thought it was ; I could not say.

Q. You know, do you not, that the hospital records that were put in show that the tube was removed on the second day ?—A. Yes.

Q. And you knew from the dressings that your wound had not been healed ?—A. Yes.

Q. And that the stitches had not been removed ?—A. I did not know about the stitches, not before the drain was removed.

Q. You know at that time that the stitches had not been removed ?—
40 A. I did not know whether there were stitches there or not, not until Dr. Bell spoke of stitches.

Q. You knew also that it was a sister and not a nurse who attended when Dr. Bell removed the tube ?—A. Yes, I thought it was a sister.

Q. But what you say is that Dr. Bell used no gloves ?—A. No, he did not.

Q. Madam, used his fingers ?—A. I have never seen Dr. Bell with gloves on.

Q. So, around your neck, he, a surgeon, put his bare fingers up to remove this tube ?—A. I suppose he thought he would not be touching
50 me if he touched the tube.

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Q. He used no tweezers ?—A. No.

Q. He used no forceps ?—A. No.

Q. You realise, of course, from your knowledge that infection is a thing that surgeons have to guard very carefully against ? (Objected to.)

A. I have gained a lot of knowledge of these things since I came to Court, but I cannot say that I knew then.

Q. Do you know now ?—A. Yes, I know now.

Q. You tell us that he caught it in his fingers ?—A. Yes.

Q. Bare hands ?—A. Yes.

Q. And the description you gave before was this, was it not, that 10
he tried to remove the drain ?—A. Yes.

Q. That he could not do so ?—A. Yes.

Q. That he pulled a couple of times very hard ?—A. No, he just jolted it the first time.

Q. Just jolted it ?—A. Yes, just shook it the first time, and then pulled a little harder, and then hard.

Q. This is the first time in this case that you used the word " jolted " ?
—A. Well, it all means the same thing.

Q. This, I put, is what you gave to your own Counsel in the first trial. I put it to you you swore exactly the same thing as I am going to 20
read to you on the first, second and third trials. Coming back to the third trial, this is what you swore : " He tried to remove the drain " ?—
A. Yes.

Q. That he pulled a couple of times very hard, that is what you swore ?—A. I don't remember it.

Q. You have checked your memory up on this very matter ?—A. No, I have not, I may have left out the shaking the first time.

Q. Do you think you did leave it out the first time ?—A. I may have done ; I don't know what I did say, you have the book.

His HONOR : Is it correct that he did pull a couple of times very 30
hard ?—A. Yes, then the last time.

Mr. CASSIDY : This is correct then, that he pulled a couple of times very hard ?—A. What would you call very hard ?

Q. They are your own words ?—A. Very hard to me with a bad throat ; with the wound in my neck it was hard.

Q. And it was a couple of times ?—A. Yes.

Q. It did not come out, after pulling a couple of times very hard, it did not come out ?—A. After pulling it a couple of times it did not.

Q. Then the next thing you swore was that he then put his hand on your forehead ?—A. Yes, the second time. 40

Q. Then he pulled hard and the drain came out ?—A. Yes.

Q. Did you not scream in agony ?—A. I said " Oh."

Q. You said " Oh " ?—A. Yes, I did.

Q. You were two days out of an operation ? Didn't you scream ?—
A. I did not scream at everything.

Q. You said " Oh " ?—A. I said " Oh." It was a loud " Oh " ;
I was hurt very much.

Q. Did you say " When he pulled it hard it came out," when he had his hand on your forehead he pulled and it came out ?—A. Yes, when he pulled hard it came out. 50

Q. Had he removed any stitch from it at that time ?—A. I cannot tell you, I was not looking at it, I had not seen the wound in my throat.

Q. Did you notice whether he clipped the stitch?—A. He said he would.

Q. Did he do it?—A. Whether he did or not I cannot say.

Q. You would remember this if it hurt you tremendously?—A. He would not hurt me any more than he could help, I suppose; it hurt to touch me.

Q. "Did he pull hard before he put his hand on your forehead," and you said "Yes." Was that correct?—A. Yes, he pulled firmly.

10 Q. "And he was able to remove the drain at that stage?—A. Yes." Is that right?—A. Yes.

Q. Do you remember then being asked this question: "That of course was after he had loosened a stitch on the drain, as you call it, you remember you gave evidence that he loosened the stitch?—A. Yes"?

A. Yes, he said he would loosen the stitch.

Q. "All this happened after he had loosened or removed that stitch?—A. Yes"?

Q. You knew, did you not, that the drain was affixed to the outside of the wound with one stitch?—A. No, I did not know then.

Q. But you know now?—A. Yes, I have heard it in Court.

20 Q. And that there is a safety pin in the tube?—A. I have heard that in Court.

Q. With that stitch removed he pulled with one hand and with his hand on your forehead, you tell us?—A. Yes, he still rested his hand on my forehead to hold my head firm, I had a wound in my throat. I don't suppose he wanted to jolt me.

Q. Did you feel the rubber give?—A. I felt such a stinging and paining sensation that I did not know what it was; it was just pain.

Q. Did any blood come out, rushing from the wound?—A. I cannot tell you, there was blood and pus, perhaps, but I cannot say for sure.

30 Q. You did not see any?—A. I could not see. I had a bandage around my throat.

Q. Do you remember saying before: "Did your wound break open in any way?—A. I cannot tell you, not to my knowledge"?

A. Dr. Bell knew the treatment. He knew what had happened.

Q. He knew what had happened?—A. Yes, I depended on him to attend to me.

40 Q. Did you make a complaint to him that he had only taken a little bit out?—A. No, I thought he had taken it all out.

Q. You told me that you saw a piece about half an inch long?—A. I don't know the length of the drain.

Q. It was only half an inch, the bit that you suggest that he got out. How did he get it out unless there was something sticking out of the wound?—A. I don't know.

Q. Did he remove the bandages and put his fingers into the wound?—A. No, he did not. He did not touch me at all.

Q. So there was some sticking out?—A. There must have been.

50 Q. Did you feel him catch it?—A. Certainly I felt it. I felt the pain in my neck.

Q. Did you feel him catch the tube?—A. I can't say I felt him catch the tube.

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Q. You follow that your neck would be in a very serious state just after the operation?—A. I suppose it would be.

Q. You did not complain to Dr. Bell about what he did and what pain he caused you?—A. Dr. Bell was in attendance. He knew what he had caused me.

Q. You made no complaint about it?—A. No, he knew; why should I?

Q. And you made no complaint to the nurse?—A. The nurse knew. They knew I was in a serious condition.

Q. You made no complaint to your husband about the alleged 10 treatment that he gave you with his fingers?—A. How did I know whether that was right or wrong?

Q. Whether you did or not you made no complaint to your husband?—A. I don't know what I did at the time. I was too ill.

Q. Do you remember this question being asked and your answer: "You did not complain to anybody of Dr. Bell's treatment at the time?—A. No"?—A. No, Dr. Bell knew.

Q. You remember the last time I asked you the question was: "That of course, was after he loosened the stitch." Coming back after removing the stitch—now, this is the next question—"Your suggestion in the whole 20 of this case is that he pulled so hard that the tube was broken into two parts"?—A. Well, it must have been.

Q. "Is that your allegation against Dr. Bell, that he pulled so hard that the tube was broken into two separate pieces?—A. The tube broke.

Q. Is that your allegation against Dr. Bell?—A. Yes, I suppose it is.

Q. Is it, madam?—A. Yes." You realise that if that tube were half an inch long the doctor must have been aware that he left a portion of it in?—A. I realise that now, but I did not know at the time.

Q. You gave the evidence in the first trial that you saw that little bit of tube in his hand, did you not?—A. Yes. 30

Q. And that it was black?—A. Yes.

Q. That is right, is it?—A. Yes, a darkish grey.

Q. You realise, of course, that the sister, also, would know that the tube had broken? (Objected to.)

Q. You realise that if the tube broke it would show evidence, in reference to the edges, of breaking?—A. Yes.

Q. You realise also that rubber has a certain tensile strength or stretching strength?—A. Yes.

Q. And the pressure that he exerted, you say, is a pressure that after the third pull pulls out like that?—A. Pulls out like what, what do you 40 mean?

Q. Pulls out from the neck?—A. Well, it left my throat.

Q. So that for the rubber to break there must have been some considerable force holding it within?—A. There may have been.

Q. That, within two days of the operation; it could not have got an adhesion to anything? (Objected to.)

Q. You have described Dr. Bell as very careful in his treatment of you?—A. As far as I know.

Q. You have had a good deal of experience of him, have you not?—A. I cannot say I have. 50

Q. You were kept in hospital from 22nd February to 15th March before you were thought fit to undergo the operation? (Objected to; disallowed.)

Q. The fact is that you were having pre-operation treatment between 22nd February and 15th March ?—A. I don't know what the treatment was ; I understood I was under observation.

His HONOR : This is the position. You went in on 22nd February with a view to being operated on ?—A. Yes.

Q. And you were not, in fact, operated on until the 15th March, nearly three weeks after ?—A. Yes.

Mr. CASSIDY : And Dr. Bell called practically daily to see you ?—A. Yes, most days.

10 Q. And called practically daily to see you after your operation ?—A. Yes.

Q. And you were there until the 14th April ?—A. I don't remember the date.

Q. You were there for about a month after the operation ?—A. Yes.

Q. You described this piece of tube before, that it was about half an inch long, the piece that he removed ?—A. Yes.

Q. And you said, did you not, and it is correct, that that is the only time he touched the tube ?—A. That is the only time I remember him touching the tube.

20 Q. I will remind you, madam, that you said at the third trial : " He made no attempt to have you removed to the operating theatre or did nothing further to your throat at that time ?—A. No. Q. At no time prior to that had he interfered with the tube after the operation ?—A. No." Would that be correct ?—A. Yes, that would be correct. I don't remember anything about it until then.

Q. You saw the tube, did you, thrown on to a tray ?—A. Yes, he threw it on to a tray.

Q. And you said that the sister straight away took it out of the room ?—A. Yes.

30 Q. Were you suggesting by that that the sister surreptitiously removed it, wanted to get it away ?—A. I don't know. I had never had a drain removed from my throat before.

Q. But when you said the sister straight away removed the tray out of the room, did you mean to infer then that it was being removed surreptitiously ?—A. No, I don't know anything about it.

Q. You told us on the last occasion when Dr. Bell took out this portion of the tube he looked at it ?—A. Yes.

Q. You saw it in his fingers, did you not ?—A. Yes.

40 A. He said it was tube he was removing, and I saw it in his hand.

Q. And he looked at it ?—A. Yes.

Q. So there is no doubt about it, he must have known ?—A. Yes, he must have.

Q. He must have known that it was broken ?—A. Yes.

Q. Could you tell it was broken yourself ?—A. No, I would not know it was broken.

Q. How far from your face did he hold it when you saw it ?—A. He was standing by the bed.

50 Q. How far away from your face ?—A. It would not be any further than that glass (indicating).

Q. And where was the sister ?—A. Somewhere back behind him, as far as I can remember, I cannot tell where she was.

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Q. Fairly close?—A. Yes, very close, just behind.

Q. Did it show signs of suppuration or pus around it?—A. I cannot say.

Q. But it was very close to you?—A. Yes, but I had my eyes closed really with the pain. I saw it and then with the pain I might not be looking at it.

Q. You opened your eyes and saw it and then closed them?—A. I had them open then, but I did not have my mind on the tube. I thought it was removed. I was not looking for suppuration.

Q. I want you to go from the removal of the tube for a moment 10 right up to the 5th October 1939?—A. Yes.

His HONOR : Do you realise the significance of the date, 5th October 1939?—A. Yes.

Mr. CASSIDY : That is the date you alleged you passed the tube?—A. Yes.

Q. This is correct, is it not, that the object that you saw on the 5th October was a different size to the tubing which was in Dr. Bell's hand?—A. Yes.

Q. In between May 1938, when you went into Quirindi Hospital, and 5th October 1939, you had had many spasms, had you not?—A. Yes. 20

Q. And some of them were attended in your home?—A. Yes.

Q. And you attended to yourself in minor ones, did you not?—A. Yes.

Q. Did you ever in any of those put anything in your mouth?—A. No.

Q. Are you sure?—A. Certainly.

Q. Do you describe one on the 2nd October when your teeth were clenched?—A. Well, my jaws were mostly set in a tetany spasm.

Q. Let me go back now to the removal of the tube. Yesterday you gave this evidence, did you not, that when Dr. Bell removed the tube 30 he held it in his fingers for a second, "and I saw him with just a little dark piece of rubber, then he threw it into the tray and he and the sister turned around and left the room"?—A. Yes.

Q. "I had a stinging sensation in the throat; it stung very much there," and you pointed to the left side of your throat?—A. I went right across the throat. I would stop on the left side, but I went across.

Q. That is the first time that you have sworn that you felt at the time of the removal of that a stinging across the throat when he removed it?—A. No, not the first time.

Q. When do you say you swore it before, which trial?—A. I don't 40 remember.

Q. So when you felt that stinging in your throat may we take it that you cannot say whether it was in the right or the left side?—A. It was right across the throat.

Q. You swore previously that the tube was in an inch to the right of the centre?—A. It was on the side, but I don't know whether it is an inch.

His HONOR : Which side?—A. On the right side, an inch to the right. You say an inch, but I don't know. I did not measure it.

Mr. CASSIDY : You gave the description as an inch?—A. I may 50 have said about an inch. I never measured it.

Q. So these gentlemen can take it that there is no doubt that the tube was in the right-hand side of your neck ? (Objected to : disallowed.)

Q. On every occasion you have said that the tube was in the right-hand side of the neck ? (Objected to.)

Q. You make no suggestion that any part of that tube got across into the left of your neck ?—A. I don't know how it got across.

Q. You have made no suggestion, however, that that tube was stuck in so that it went into the left part of your neck ?—A. I said the tube was somewhere about here (indicating) where Dr. Bell pulled it. That is all I know by.

Q. Do you know how much there was outside the wound ?—A. No.

Q. There was enough, at least, for him to get his hand on ?—A. He got it with the point of his fingers.

Q. Did you see that ?—A. He had the tube in his fingers.

Q. You have never suggested before that the tube put in to the right got across to the left ? (Objected to.)

Q. Isn't to-day the first time that you are putting this tube as being round on the left ? (Objected to.)

Q. Do you say that the tube was put in the left side on that evidence ? (Objected to ; allowed.) Do you say that you meant by that that the tube was put in on the left-hand side of your face ?—A. No, I don't.

Q. You have sworn every time that the tube went in on the right ?—A. Yes.

Q. This is the passage Mr. Shand is referring to : " What side of your throat do you say the tube was in ?—A. The left side. Q. I thought you said the tube was in the other side ?—A. It was the right side that Dr. Bell removed the tube from " ?—A. Well, so it was.

Q. You know Prof. Welsh gave evidence as to how the tube could get away from the right side to the left ? (Objected to ; disallowed.)

Q. You could not localise the stinging that you felt in your neck. You say it was around your neck ?—A. Yes, across my neck.

Q. The mark is there where the tube went in, is it not ?—A. Yes.

Q. Where you suggest the tube went in ?—A. Yes.

His HONOR : Which side is that ?—A. That is the right-hand side.

Mr. CASSIDY : Now I want to take you to the evidence you gave. First of all, you swore, did you not, that you saw the tube sticking out ?—A. I did not see it. I had never seen myself in the glass.

Q. Is this what you said to your Counsel on the first trial : " In the course of a day or two did you notice anything else ?—A. Yes, there was something sticking out the right side " ?—A. I knew there was something sticking out the right side, but I did not see it.

Q. When you said that you noticed something sticking out the right side didn't you mean that you had seen it ?—A. No, I felt it, and I was told to lean on my right side so that it could drain.

Q. You felt it with your hand ?—A. No, I had a pad on my throat, and when I moved I could feel something catching.

Q. You could feel something catching and you knew that something was sticking out ?—A. I could feel something catching.

Q. In addition your husband saw the tube ?—A. I don't know what my husband saw.

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Q. I put to you that you have discussed with him on several occasions that tube sticking out of the neck and that he saw it?—A. No, I don't every remember discussing it with him.

Q. Your husband was visiting you there in hospital?—A. Yes.

Q. And I want to ask you again, to your knowledge did your husband not see it?—A. My husband would see more than I could see.

Q. I want to put to you, madam, that you know that he saw it?—A. I heard him say in Court that he saw it.

Q. And he says too that it was sticking out on the right side of the neck?—A. I don't remember. 10

Q. I want to take you now to your evidence on 18th August 1942, at the second trial: "When I came out of the operation and I was in the ward I noticed that my neck was bandaged but did not notice anything else that day. The next day I noticed that there was something out of the right side though I did not see it I could feel it" ?—A. Yes, when I moved I could feel something catching.

Q. "I did not touch it but I knew it was there. Now there is an indication on the neck at the present time showing where that was, a triangular scar." Is that right?—A. Yes, there is a scar there. I did not know the shape of the scar. 20

Q. "There is a mark there. His Honor: Is there any mark now to indicate where it was?—A. Yes." You had a mirror in your hand. "About there (indicating base of the neck on the right side)." Then the distance was measured with a ruler and you said it was a little over an inch?—A. I don't remember everything about that.

Q. Mr. Reimer measured it with you in the box and then he showed you the ruler and you said a little over an inch?—A. I recollect him taking the measurements.

Mr. CASSIDY: You had a Counsel there, or two?—A. Yes.

Q. (Notes of Proceedings, Third Trial, page 24, line 40, referred to.) 30
"There is no question that this tube had been put in on the right-hand side of your neck," and your answer was: "Yes, it was put in on the right." Is that right?—A. Yes.

Q. "And it was not according to you in the same position as where the discharge subsequently appeared" ? And your answer was "No." You were asked "That is definite" ? You answered "Yes." The question was "The discharge was in the centre of the neck" and your answer was "Yes." To your own Counsel at that time: "The drain was on this side of my neck (indicating the right side)" ?—A. Yes.

Q. Did you notice any bulge in your neck after Dr. Bell is alleged to 40
have pulled this tube out?—A. My neck was swollen. I could not see it, but I could feel it.

Q. But not immediately?—A. It was swollen slightly before, so far as I know.

Q. You know that your windpipe in that little hollow of the neck gets very very close and there is a little space there?—A. I have heard of it.

Q. You felt nothing sticking across there, did you?—A. No.

Q. While you were in hospital, your wound was probed from time to time?—A. Yes. 50

Q. And the probe went into the wound?—A. Yes.

Q. In any event, the doctor did probe your neck from time to time during the period of convalescence?—A. He kept the wound open, that is the only probing I can speak of.

Q. You know he was probing with the instrument?—A. Yes, I know he was trying to keep the wound open.

Q. That probing, you recollect, took place at various intervals from the time of the operation until you left?—A. I did not notice any probing for a time after the operation.

Q. What do you mean by that?—A. For some days.

10 Q. Is that a couple of days?—A. Three or four days or so.

Q. The probe went inside the wound?—A. I do not know how far it went in. I know it hurt very much. I know he put the probe in the centre of the wound.

Q. I suppose after a time some of the knots were recovered?—A. Yes.

Q. Did the doctor never say a word of the tube being broken, or whether he found it?—A. No, it was never mentioned again.

Q. Did you wonder if there was only half an inch in his hand, what had happened to any part of it?—A. No.

20 Q. Did you ever suggest to him that something must have been left in?—A. No.

Q. Did you mention to any sister or doctor or nurse that you felt any foreign body in your neck?—A. No.

Q. I now want to come to the object which came out, which you alleged you passed. You described it in the last case. Do you remember describing it?—A. Yes.

Q. You described it as being about 2 inches long?—A. Yes, about.

Q. (Page 23, line 30 referred to.) A straight cut on one end, on one side?—A. Yes.

30 Q. The cut about three-quarters of the length of the piece, is that right?—A. I do not know, yes, I suppose it would be right.

Q. And the portion uncut about half an inch?—A. Yes.

Q. And in the centre what you called a marine sponge?—A. Yes.

Q. You described it as a marine sponge?—A. Yes.

Q. It was dark grey, definitely not red?—A. Yes, it was grey.

Q. (Page 24 referred to.) It was dark. Did you say a lightish grey, definitely not red?

Mr. SHAND: She said before it was lightish grey.

40 Mr. CASSIDY: Not a darkish grey. I am reading from what you said before. Do you remember at the previous hearing, Mr. Reimer in accordance with your directions, made a model of the tube?—A. Mr. Reimer made the tube?

Q. Yes, in accordance with your directions?—A. No, I could not say it was in accordance, altogether.

Q. I want to read you what I suggest you swore before, and ask you do you wish to withdraw it. "You remember at a previous hearing in accordance with your direction, a model was made of the tube by myself," and you answered, "Yes"?—A. Yes, I remember making a tube.

50 His HONOR: But do you remember being asked that question by Mr. Reimer, and giving that answer?—A. No, I do not remember the questions, but I suppose I was asked it.

Mr. CASSIDY: It is correct in accordance with your directions, Mr. Reimer in your presence made that article?—A. Yes.

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Q. And you answered this question at a previous hearing, "In accordance with your directions, a model was made of the tube by myself." It was a true answer?—A. Yes.

Q. "Myself" being Mr. Reimer. "And in this piece of tubing that you say you saw, were the two pieces of wire," you were asked and you said "Yes"?

His HONOR: You answered the question?—A. Yes.

Mr. CASSIDY: And it was true?—A. Yes.

Q. "One was about an inch or an inch and a quarter long, the other slightly shorter," and you answered "Yes." Is that correct?—A. Yes. 10

Q. Then the object was produced and shown to you. Do you remember Mr. Reimer showing it to you?—A. Yes.

Q. And then he said: "And you say that was a fair representation." (Objected to.)

Mr. SHAND: Something comes before that.

Mr. CASSIDY: "Is that object . . . it is very like it" and the next question was: "You can assume it has come from the Court's possession" and: "That was made according to your directions," answer "Yes." Is that true?—A. Yes.

Q. It had remained in Court the whole of the time?—A. Yes. 20

Q. The next question is: "And you say that is a fair representation of the object which you saw on the 5th October," answer "Yes"?—A. I do not remember what I said.

Q. I will read it again: "And you say that is a fair representation . . ." "Yes." That is what you said?—A. Yes, I suppose so.

Q. And it was true?—A. Well, it is not much like it.

Q. What you swore then was true?—A. No, it was not true because that was not like it.

Q. It is not true?—A. Mr. Reimer knew that I said a soft grey rubber, and he had a hard red rubber. 30

Q. Is that the only difference, this is a red rubber, and that was grey?—A. There is that strong wire, I could not bend that wire.

Q. You said a fair representation of the object you saw on the 5th?—A. But you can mean a lot by saying "fair."

Q. You did not alter it in any way?—A. I did not bother about it.

Q. You did not qualify that remark in any way?—A. No.

(m.f.i. 1.)

Q. Yesterday you used the word "horsehair," that it was like horsehair?—A. I said it flipped back like horsehair.

Q. That was the first occasion you used horsehair to describe it?—A. I do not remember, I may have heard it on the first hearing. 40

Q. You told Mr. Reimer that it was a wire, did you not?—A. Like wire.

Q. Did you answer that question of mine, this is the first occasion you have ever said it was like horsehair?—A. I do not remember whether it is the first or not.

Q. Can you point to any passage where you have ever described it as horsehair. First of all, did it fly back straight?—A. Yes.

Q. And remained as you drew it in that sketch?—A. Yes, well not exactly as that sketch, but that was as near as I could draw it. 50

Q. That sketch was your second attempt. You had drawn one before?—A. No, I did not, I did not say that.

Q. Did you only draw one sketch?—A. Yes, I drew only one sketch.

Q. Did you say before you felt the pricking of this wire in your stomach?—A. I had a sensation in the stomach of something sticking in me.

Q. Do you remember describing it as a pricking and scratching in your stomach?—A. Yes.

10 Q. And you felt that for some couple of days?—A. I felt it for a while, I could not say how long.

Q. I will go back to the eruption of this thing into your mouth. You tell us that your condition on the Sunday and Monday, 1st and 2nd October, was very, very serious?—A. Yes.

Q. On page 15 of the first trial, you described that you lost consciousness "several times during the day"?—A. Yes.

Q. And you were constantly drawn up for two days?—A. Yes.

Q. And your limbs had not been straight for two days?—A. Yes.

Q. That your husband came home at 3 o'clock?—A. Round about 3 o'clock.

20 Q. That you then swallowed something?—A. Yes.

Q. That is the thing that burst into your mouth?—A. Yes.

Q. You did not tell your husband about swallowing anything?—A. Not immediately.

Q. You were occupying the same bed at that time?—A. Well, yes.

Q. And you did not tell him anything about it until 3 o'clock the following morning?—A. I could not talk.

Q. Is that right?—A. That is right.

30 Q. You could not?—A. No, I spoke very little during that 18 months. There were times when it was really difficult to speak. I was really ill. I did not tell him immediately.

Q. During the 18 months there were times you could not speak?—A. Yes, my voice was husky and low, I had difficulty in speaking.

Q. Would it apply to when you were in hospital in Quirindi, that you could not speak?—A. I do not remember in Quirindi, but I remember after I left hospital.

Q. You were in hospital, that would be within two months of your operation; was that the position then?—A. It got worse after that.

Q. You were talking a very great deal in Quirindi, I put to you?—A. No, I did not.

40 Q. In September you were in for a few days. Was your voice so bad then that you could not speak?—A. Yes, I said very little on that trip.

Q. I put it to you you were making complaints at the hospital about your husband?—A. Oh, I never did. How can you stand there like that?

Q. You know that a matron was in charge at Quirindi Hospital?—A. Yes.

Q. Did you ever report to her that you had had a pricking sensation in your neck, and that blood had come down from the wound along your chest?—A. I was not the first person to report it to the matron.

50 Q. But did you report it to the matron?—A. Yes.

His HONOR: Did you yourself report it?—A. She came and asked me about it.

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Mr. CASSIDY : And you told her ?—A. Yes.

Q. In September 1938 was your voice so bad then there, you could not speak ?—A. No, not then.

Q. When did it start ?—A. It was very bad during the last three months.

Q. Would that mean July 1939, for example ?—A. Yes, it would be bad in July.

Q. Was it so bad on the day this matter occurred, this eruption, that you could not tell your husband that you had swallowed something ?—

A. I was really very ill and I did not tell him until some time after, and I was so ill that I do not remember just when it really was. 10

Q. You said before, you gave a time as 3 in the morning, that you told him in bed ?—A. No, I did not tell him in bed. My husband said it was round about 3 o'clock. I did not look at the clock myself.

Q. Was it in bed ?—A. I was in bed. It was in the daytime.

Q. You were both occupying the same bed ?—A. But it was 3 o'clock in the afternoon.

Q. But occupying the same bed, you told him 3 o'clock next morning, did you not ?—A. No, I did not.

Q. It would be wrong to suggest it was 3 o'clock next morning ?— A. Yes, it certainly would be. I do not remember what time it was. 20

Q. You remember clearly that you did not tell him then ?—A. No, I do not remember clearly.

His HONOR : That would be the afternoon of the 2nd.

Mr. CASSIDY : Take when you were in hospital in May. First of all, you were asked at the second trial at page 116 when you told your husband and you said some time that night, that it may have been in the morning hours ?—A. Well, I do not know when it was.

Q. Round about the 3rd after midnight ?

Mr. SHAND : She also said " I do not know what time." 30

Mr. CASSIDY : You know from discussion with your husband he said it was 3 o'clock ?—A. No. (Question objected to.)

Q. You remember being asked a similar question on the third trial ?— A. No, I do not remember the question.

Q. Dr. O'Hanlon examined your throat before you left Quirindi after the tube came out ?—A. No, he did not.

Q. You see on the day you had the X-ray, the 7th October, the Saturday following the Thursday ; he examined your throat then ?— A. No, he did not.

Q. I want to put to you, that from October 1938 until October 6th 1939, you had only seen Dr. O'Hanlon twice professionally ?—A. I do not remember how many times. 40

Q. And that on one of those occasions was 1st February 1939 ?— A. I do not remember.

Q. That the other occasion was the 19th September 1939 ?—A. I saw him more often than that.

His HONOR : Professionally ?—A. I do not know whether it was professionally or not ; I do not know whether he put it on the bill or not.

Q. Not a question of seeing him in the street, but when he either came to your house, or you went to him ?—A. He came to see me. 50

Q. On how many occasions did he come in that period ?—A. I do not remember.

Q. After you left Quirindi Hospital on the second occasion—well, it would be actually the third occasion, between that time and the 6th October 1939, how many times did Dr. O'Hanlon come to your home to see you ?—A. I do not remember the times but more than twice.

Mr. CASSIDY : Have you not agreed before it was only twice ?—
A. You said " Professionally " ?

10 Q. At your home, to see you professionally ?—A. Yes, but there is a difference in the " professionally." I do not know whether these calls were on the bill or not.

Q. I put it to you that you saw him at the pictures on the 17th January 1939, but I do not include that. Do you deny that you saw Dr. O'Hanlon at the pictures about the 17th January 1939 ?—A. Yes, I do.

Q. Were not you there ?—A. I do not remember being at the pictures.

His HONOR : But were you in fact at the pictures in 1939 ?—A. No, I hadn't been to the pictures for a long while, I had not been during my illness.

20 Q. Over what period did you not go to the pictures ? When do you refer to as " your illness " ?—A. Well, it would be more than 18 months.

Mr. CASSIDY : What I suggest to you is, that after you came to hospital in July 1938, or at least June 1938, and after Sister Sly left, that you had no more trouble with the swelling ?—A. I did.

Q. That your trouble then were these hysterics, or spasms, you used to take ? (Objected to.)

Q. Well, the spasms you used to take. The trouble was then entirely the spasms ?—A. No, I was swollen too.

Q. Entirely the spasms ?—A. No, it was not entirely. I was swollen too.

30 Q. Were you swollen while Sister Sly was there ?—A. Yes.

Q. Was it bad ?—A. At times, not as bad as at the latter stages, but I was swollen.

Q. I put it to you that you have exaggerated this question of the swelling of the neck from June 1938 to October 1939, and that during that period there was no swelling, practically no swelling of your neck ?—
A. I was never free of it from the time I had the operation. Sometimes it was more and sometimes less, but I was never free of the swelling.

Q. Sister Sly was nursing you at the home ?—A. Yes.

40 Q. Were you free of it when she left ?—A. No, it was not so bad. I was feeling better but I was still swollen.

Q. Was it bad in 1939 ?—A. Yes.

Q. You wrote to Dr. Bell in May 1939, did you not ?—A. I do not remember the date, but I think I did.

Q. You said not one word to him about having any swelling in your neck ?—A. Dr. O'Hanlon was writing to Dr. Bell, and ringing him on the telephone.

Q. But did you ?—A. No.

Q. Your only complaint was the tetany spasms ?—A. It was enough.

Q. You wrote to Dr. Ritchie at the same time ?—A. I think I did.

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Q. And again you said nothing about swelling in your neck, did you ?
—A. I do not remember what I said to Dr. Ritchie, I do not think I did
though.

Q. You said not one word in either letter about pus in your neck
or being unable to swallow or unable to move your neck ?—A. No,
Dr. O'Hanlon told everything it was necessary to tell.

Q. But you were writing to Dr. Bell and Dr. Ritchie to tell them
how you were ?—A. I think I complained enough, or I thought I had, by
saying I still had the tetany.

Q. But Dr. Bell had written to you asking you how you were ?—A. No, 10
I do not remember his writing to me.

Q. When you wrote to Dr. Ritchie, if you had pus coming out of your
neck, and a swelling in your neck, would you not have told him ?—A. I
do not think I had pus coming out of my neck at that stage.

Q. At that time you were free of it ?—A. I do not remember the days.

Q. It was May 1939 ?—A. I do not remember.

Q. At that time one of your friends, a gentleman at your home, told
you that you were looking beautiful ?—A. Yes, I looked as ugly as anything
he had ever seen, and that was why he said I was beautiful.

Q. I ask you again, at the X-ray, which was taken on the 7th October 20
your neck is shown as the ordinary normal lines of the neck ? (Objected
to ; not pursued.)

Q. On the 7th October was there any swelling in your neck ?—A. It
was still slightly swollen but not nearly as bad as it had been.

Q. Take during 1939. First of all, you have seen the orders on the
chemists with whom you dealt, which are in this Court ?—A. I know
they are there. I have not seen them.

Q. The position is that during 1939 except for sedatives, you had had
nothing from the chemists for about a year ?—A. Oh, yes.

Q. Nothing to do with your neck during the whole of that year ? 30
(Objected to.)

Q. You know what you bought from the chemist ?—A. No, we did
not get everything from the local chemist.

Q. Was not there produced here last time, the local chemist's, Davies,
accounts, from whom you purchased goods ?—A. Yes. (Question objected
to.)

Q. Dr. O'Hanlon was the only man giving you prescriptions ?—A. No,
I could not say that.

Q. Who else do you suggest ?—A. No, there was no prescription, but 40
I had other treatment.

Q. From whom ?—A. My husband was in business and we got things
through that way. We got them cheaper than by going to the local
chemist.

Q. What did you get for your swollen neck ?—A. I could not say. I
tried all sorts of different things.

Q. What, during 1939 ?—A. Yes, we tried quite a lot.

Q. During 1938 and 1939 ?—A. Yes.

Q. Did you take them internally, or apply them externally ?—
A. Well, mostly externally.

Q. Can you tell me one ?—A. No, I cannot, but I know I had tablets. 50
I could not tell you what they were.

Q. You will agree that during 1939 from Mr. Davies the chemist, you bought nothing for your neck?—A. I could not agree to that. I do not know.

Q. On the 5th October, at the time of passing the tube, you say you were very ill?—A. Yes.

Q. You did not consult a doctor and you did not consult a chemist, did you?—A. No.

Q. Your husband visited the chemist on the 5th October?—A. I do not know.

10 Q. You admitted last time that what your husband got that day was an indigestion cure for himself?—A. Yes, but I could not say when he got it.

Q. But you got nothing?—A. No, I got nothing.

Q. You have on previous occasions put this condition of swelling as lasting from the time you left St. Luke's up to October 1939?—A. I could not say I was free from swelling the whole of that time.

Q. But that was what you put on previous occasions, that the swelling lasted from when you left St. Luke's in 1938 up to 1939?—A. Yes, I was swollen all that time.

20 Q. You said that even your neck was swollen, that when the sinus cleared up at the end of June, your neck became more swollen?—A. Yes.

Q. There is no doubt you were in difficulty while Sister Sly was with you?—A. Yes.

Q. And there was no longer any discharge from it?—A. No.

Q. You put it that your neck then started to swell?—A. Yes.

Q. You said it became worse and worse?—A. Yes.

Q. You said it gradually grew worse in the next 12 months. "My head was terribly swollen. I had no neck, my head and shoulders were all one, they all ran into one"?—A. Yes, I was swollen out on both sides

30 of the jaw, and the face came straight down.

Q. That was from October 1938 to June 1939, is that so?—A. Yes.

Q. You were unable to get about because of the swelling?—A. Yes.

Q. You were unable to turn your head from June 1938 right through until October 1939?—A. Turn my head to the left, yes.

Q. You had to turn your whole body?—A. Yes, I had to turn the body round.

Q. And that, you said, lasted for months after you left St. Luke's?—A. Yes, it was quite a long time before I got out of the habit of turning my body when I wanted to turn to the left.

40 Q. We may take it from June 1938 to 1939 you were constantly unable to turn your neck to the left?—A. Yes.

Q. What would be the position in which you carried your neck?—A. Mostly looking straight.

Q. The slightest bend caused trouble?—A. Yes, caused pain.

Q. Did you feel anything sticking in your neck?—A. No.

Q. Did you feel anything pricking in your neck?—A. No.

Q. Your neck was out some little distance, swollen out?—A. Yes.

Q. You described your head and shoulders as being all one?—A. Yes.

50 Q. Mrs. Nancarrow visited you in April 1939?—A. She visited me, but I do not remember the date.

Q. She is one of your witnesses in Sydney?—A. Yes.

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Q. Were you in that condition when she visited you?—A. Well, I was very swollen.

Q. And very noticeable?—A. Yes, must have been noticeable.

Q. You take it this man was being sarcastic when he said you looked beautiful?—A. Yes.

Q. It was rather offensive for a man to pass a remark about your appearance, a sarcastic remark like that?—A. No. I knew he was joking. I have known him quite a while and I know the jokes he passes.

Q. Was he under the influence of liquor?—A. He had had a glass or two. I would not suggest he was under the influence. He said he had been to a party and that he called in to see how I was on the way home. 10

Q. What was his name?—A. That was Mr. Nancarrow.

Q. But his wife had not been to the party too?—A. Yes, and the two children.

Q. When did they call in to see you?—A. I do not remember the time.

His HONOR: Morning, noon or night?—A. It was in the evening.

Mr. CASSIDY: But this swelling was very noticeable?—A. Must have been. I mostly had it tied up at that stage. 20

Q. But you did not have it tied up that night?—A. I mostly did.

Q. You had a nice dressing gown on?—A. No, I did not have a nice dressing gown.

Q. That night you had it tied up?—A. Yes.

Q. You suggest they could not see it?—A. I could not remember them seeing my throat. I could not say, but I mostly had it tied up.

Q. You have discussed the matter with that lady?—A. No, I have not.

Q. Has she never told you—(Objected to).

Q. Has Mrs. Nancarrow never told you that she admitted in Court that your neck was not swollen? (Objected to: pressed on credit: rejected.) 30

Q. Do you know that she told—(Objected to).

(Mr. Cassidy says that he will write out the question during the luncheon adjournment.)

Luncheon adjournment.

At 2 p.m.

Mr. CASSIDY: I want to take you shortly to the eye incident. You have described it to us here as an incident where you had to pull at the eyelashes so hard that they almost came out?—A. Yes. 40

Q. That being with which hand?—A. I think it was the left hand. I could not say. It must have been my left hand.

Q. You watched your actions in the glass?—A. Yes—it was my left hand.

Q. You were asked before with regard to this matter, and you said you did not have double vision?—A. No.

Q. And you did not see two of anything—two nurses, or anything like that?—A. No.

Q. You described—p. 31, third trial—how you got a mirror and saw this spasm, as you call it, in one eye. Your answer to that was "Yes"?— 50
A. Yes.

Q. You were asked "You actually saw the one eye moving back, watching it with the other," and you said "Yes" ?—A. Yes.

Q. Then you went on: "You did not have double vision, you did not see two wards, two nurses, and so on," and your answer was "No; I had the spasm on the left side of the face only; the right side was quite all right" ?—A. Yes.

Q. You could see with your right eye quite clearly ?—A. Yes.

Q. You say you can remember that spasm and you can describe it to these gentlemen as you have described it ?—A. Yes.

10 Q. The next thing I want to pass to is massage. The only time you have mentioned massage during this trial is as to massaging your stomach, is it not ?—A. I could not say. I meant my arms and legs and my stomach.

Q. I will read what you said to remind you (p. 18). You were asked "What was the bad turn," and you replied "A bad tetany turn; I was drawn for some hours, constantly drawn further in and the muscles tightened until I was drawn right up. I was drawn up with my knees drawn up to my chin, and the nurses were massaging my stomach and limbs trying to keep the muscles from tightening further" ?—A. Yes.

20 Q. That is the only time you have mentioned massage on this occasion—you can take it from me that is so—I have been through your evidence carefully, and your Counsel can correct me if I am wrong ?—A. Yes, I suppose it is.

Q. On the other occasions you have given evidence of massage of other parts of your body ?—A. Yes.

Q. You gave evidence that you were frequently massaged—that is correct, is it not ?—A. Yes.

Q. Both in the hospital ?—A. Yes.

Q. By your husband ?—A. Yes.

30 Q. And by Sister Sly ?—A. Yes.

Q. By your own sister ?—A. Yes.

Q. And that that massage was of the neck ?—A. No, I did not say the neck.

Q. Of the arms ?—A. The arms, yes.

Q. Of the head ?—A. No.

Q. Is your evidence to-day that there was no massage of your head and your neck ?—A. My husband tells me he massaged—

His HONOR: Is that what you say, that there was no massage at any time of your head and neck ?—A. Yes, there was.

40 Mr. CASSIDY: And that massage occurred frequently ?—A. No, not frequently.

Q. When these spasms were on ?—A. No—I could not say my face was massaged frequently.

Q. How about your neck ?—A. My neck was not massaged very much either. It was too painful to massage.

Q. Were your arms massaged a lot ?—A. My arms were massaged a lot.

Q. And frequently ?—A. When I had the tetany turns.

50 Q. Your evidence is that these tetany turns were persistent from the time you went into Quirindi Hospital until October 1939 ?—A. Yes.

Q. This is correct, is it, the massage gave you relief ?—A. It seemed to.

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Q. No—gave you relief—you told us before, did you not ?—A. Yes—it seemed to.

Q. And the more they massaged you the more it relieved the spasm ?—A. I could not say that.

Q. Did it ?—A. I do not know, for I lost consciousness, and I do not know how much they did massage.

Q. Is the position that you lost consciousness, so that you would not know if it gave you relief ?—A. I lost consciousness with the pain, and I cannot tell you how much they massaged.

Q. Did not you on the last trial make a very great deal of the fact of this massage ?—A. I do not remember. 10

Q. I want to read this to you as what you said from the third trial (line 20, p. 31) : “ Q. The more they massaged the less the spasm became until it gradually went ?—A. No, they massaged, and it relieved the spasm ” ?—A. On some occasions it did.

Q. Did you also say you got relief from the rubbing upwards ? Leaving that for the moment, did you get relief from the rubbing upwards ?—A. Upwards where ?

Q. Rubbing upwards when you were being massaged ?

Mr. SHAND : What part of the body ?

20

Mr. CASSIDY : Any part ?—A. I do not know where it was.

Q. I have the passage now (p. 100), and I will read it to you : “ And the massage would be applied to any portion of your body that was involved in the spasm ?—A. Yes.” “ You told us on another occasion that your head and neck were massaged very frequently ?—A. That is right.” Do you agree with that ?—A. I could not say it was massaged frequently.

Q. Did you give that answer on the second trial ?—A. I do not remember it. If it is there, I suppose I did.

Q. If it is there it would be true ?—A. I suppose it is.

Q. You were asked : “ Did you get relief from this massage,” and your answer was : “ Yes, I got relief from rubbing upwards.” Is that what you said before ?—A. I did not know they rubbed upwards. 30

His HONOR : The question put to you was : “ And you got relief from this massage,” and your answer was “ Yes,” and then you added : “ Got relief from rubbing upwards ” ?—A. I was speaking of the jaw.

Mr. CASSIDY : So you remember it now, and you were speaking of the jaw ?—A. I cannot say that, but if I said rubbing upwards, it must have been my jaw and the side of the neck.

Q. Where was the massage ?—A. Just slightly up the neck they told me. I cannot tell you much about it myself. It is only hearsay. 40

Q. Is it ?—A. Yes. When I was unconscious I could not tell you which way was rubbed.

Q. To the question : “ And the fact is that the application of the massage would have the effect of eliminating the spasm,” did you answer “ It would help ” ?—A. Yes.

Q. To the question : “ The more the massage was applied the less the spasm became,” did you answer : “ That is correct ” ?—A. Yes—on some occasions it did help.

Q. That is the answer you gave to that question before ?—A. Yes. That does not apply to all occasions. 50

Q. You were asked "And gradually the spasm disappeared through the massage," and you replied: "Yes, but massage might have to be carried on for quite a long time before the spasm disappeared" ?—A. Yes.

Q. To this question: "At all events the massage would be applied continuously until the spasm disappeared," your answer was: "That is so" ?—A. Yes.

Q. I go on: "And your muscles or limbs as the case may be returned to normal use." Your answer was "Yes." Is that right ?—A. Yes.

10 Q. The next question was: "You mentioned the question of massaging your neck," and your reply was "I did." Then you were asked: "These different people, including your husband, did massage your neck very frequently when you had these spasms." Your answer was: "My neck was massaged on a number of occasions by my husband and others. They started to massage my face in the hospital. That is from where my husband got the idea" ?—A. Yes.

His HONOR: Which hospital ?—A. That was Quirindi Hospital.

Mr. CASSIDY: Spasms, and rubbing of spasms or massaging of spasms, were mentioned by you, and evidence given on the previous occasions ?—A. Yes.

20 Q. Have you read the Full Court judgment on your case ?—A. No, I have not. I do not know anything about it. The jury awarded me—

Q. Just a moment. Were you told to say that ?—A. No, I was not.

Q. You did not read what was said about your case by the Full Court ?—A. No, I did not.

Q. Was it put to you last night that if I asked that question you should say that you had not read it ?—A. No, I have not read it.

Q. Have you discussed it with your husband ?—A. He does not know anything about it.

30 His HONOR: The question is, have you discussed it with your husband ?—A. No.

Mr. CASSIDY: He was present in Sydney down from Quirindi when the judgment was given, was not he? Was your husband not in Sydney and attending the Court when the judgment was given ?—A. I really could not say if he was here when the judgment was given?

(Mr. Shand remarked that judgments are always handed down and never read. Mr. Cassidy took exception to this remark.)

Mr. CASSIDY: Your husband had not made a trip to Sydney—when your husband was in Sydney he discussed the matter with your solicitor, did he not. (Objected to.)

40 His HONOR: How could she know that?

Mr. CASSIDY: I will let it go.

Q. Have you discussed this question of massage with your husband and with your legal advisers. (Objected to—rejected.)

Q. Have you discussed it with your husband, first of all ?—A. Well, we have spoken about it.

Q. You heard the medical evidence directed to this question of massage, in the previous trial—for the Defendant ?—A. Yes.

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Q. And you know that that evidence was to the effect that that account of yours indicated an hysterical element in that tetany. (Objected to : pressed—objection withdrawn.)

Q. You heard what His Honor said ?—A. Yes.

Q. Did you not gather from that, that that was indicative of hysteria ?

—A. Yes.

Q. You did ?—A. Yes.

Q. Isn't that the reason that you gave no evidence at this trial as to massage, except massage of the stomach and limbs on one occasion in Quirindi Hospital ?—A. I don't remember just saying one occasion. 10

Q. Well, you make take it that I invited your Counsel to find any other passage. In this trial the only evidence of massage you gave is on page 18 at Quirindi Hospital—the massage that I spoke of.

His HONOR : When your stomach and limbs were massaged ?
A. Yes, Your Honor. Well, that happened every time I had a tetany turn.

Mr. CASSIDY : Throughout the whole 18 months ?—A. Well, so far as I can remember.

Q. But you can remember, can't you ?—A. Yes, but I told you that I lost consciousness and I don't know what was done with me. I used to 20 have intravenous injections, and I did not know about it.

Q. I want to come next to the unconsciousness. The next matter was unconsciousness accompanying these spasms ?—A. Yes.

Q. On the previous occasions you gave evidence to this effect, did you not—the third trial, p. 31, line 25. "Both your head and your neck were massaged from time to time," and your answer was "No ; I don't remember my head being massaged." You were then asked "But your neck," and your answer was "Yes, just slightly, but only when I was unconscious." Do you remember that ?—A. Yes.

Q. "Did that frequently happen." (Objected to.) 30

Q. "When you had these attacks from time to time, you say you lost consciousness," and your answer was "Yes" ?—A. Yes.

Q. "Did that frequently happen," and your answer was "Yes" ?
—A. Yes.

Q. And that course continued, did it—that with these spasms you had unconsciousness frequently up till October 1939 ?—A. Yes, on occasions I did.

His HONOR : You were not asked on occasions, you were asked whether you frequently had them ?—A. Well, I suppose you would say frequently. The pain was terrific, and I used to lose consciousness. 40

Mr. CASSIDY : So you agree that you lost consciousness from time to time ?—A. Yes.

Q. On the 2nd October, is this correct, that you lost consciousness several times—you were in and out of consciousness ?—A. Yes.

Q. I want to come to what you said at this trial : "On this trial you gave no evidence of those continual bouts of unconsciousness, did you" ?—A. That was in chief.

His HONOR : In answer to the questions put by Mr. Shand ?—A. No.

Mr. CASSIDY : That again, madam, was a matter dealt with by a lot of medical evidence—you will remember, was it not—on the previous trials ?—A. I think it was.

Q. And that again was one of the matters relied on as indicative of hysteria ?—A. I don't know.

Q. You don't know ?—A. No.

Q. Is that your serious answer to me, that you don't know ?—A. Oh, I do know, but I did not say anything about it ; but I did not know the reason why.

10 Q. You do realise that it is one of the indications of hysteria ? You realise that now from what you know ?—A. From what I have heard.

Q. You realise that now, don't you ?—A. Yes, from what I have heard. (Objected to.)

Q. You have drawn your own conclusions now from the evidence you have heard, have you not ? (Objected to : pressed.)

His HONOR : Will you allow Mr. Cassidy to put the question, Mr. Shand, and Witness, don't you answer this question for the moment. Now put your question, Mr. Cassidy.

20 Mr. CASSIDY : From the medical evidence you heard, you have formed the impression now, have you not, that unconsciousness also is indicative of hysteria ? (Objected to : pressed.)

His HONOR : This will be cleared up at some stage of the proceedings.

Mr. CASSIDY : Madam, I want your answer—the impression you formed at the trial as to unconsciousness being indicative of hysteria. (Objected to : pressed : admitted.)

Q. What do you say. You drew the conclusion, did you not, that unconsciousness was indicative of hysteria ?—A. No, I did not.

Q. Can you tell me how it is that you have not mentioned unconsciousness in your evidence-in-chief. (Objected to : pressed.)

30 His HONOR : It was, in fact, mentioned.

Mr. CASSIDY : On one occasion, if that is so, Your Honor.

Q. Before, your unconsciousness took place with all the spasms after a certain date, didn't it ?—A. No, not all the spasms.

Q. " I was given an injection of calcium chloride at the hospital, but knew nothing of it until next day " ?—A. No.

Q. Is that the only occasion on which you have mentioned it ?—A. Oh no ; that was that occasion.

Q. Did you mention it in regard to any other incident ?—A. I don't remember mentioning it.

40 Q. Let me pass to the next thing—pus. Previously you said that for three months prior to the 2nd October, you scraped the pus off your tongue with a toothbrush ?—A. Not for three months.

Q. Yes ?—A. Not scraped with a toothbrush for three months.

Q. Would that be wrong ?—A. Yes, it is a misunderstanding.

Q. It would be wrong, would it ?—A. Yes.

Q. That would be definitely incorrect, to make that statement ?—A. Well, it was a misunderstanding, if that statement was made.

His HONOR : Would it be incorrect if you in fact said so ?—A. Yes, it would be incorrect.

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Q. Did you in fact, for three months, scrape pus off your tongue with a toothbrush?—A. No, Your Honor, not for three months.

Mr. CASSIDY : This is line 35—"Some three months or so before the 2nd October, you had this swelling which became terrible as you described. Much worse. You had pus. You were spitting it out of your mouth for a period of about three months." Did you say that?—A. Yes, that is correct.

Q. That is true?—A. Yes.

Q. Then coming to the scraping off—"You used to scrape it off your tongue with a brush in the later stages." Your answer was "Yes"?— 10
A. Yes.

Q. "Before the 2nd October." Your answer was "Yes." Is that right?—A. Well, I remember it after the 2nd October.

Q. No—before the 2nd October.

His HONOR : Did you scrape any pus off your tongue with the brush before the 2nd October. That is your birthday in 1939?—A. Yes, Your Honor.

Mr. CASSIDY : For how long, for what period?—A. Well, I remember scraping it off after the 2nd October, but I had gargles before.

His HONOR : Listen carefully to the question. Did you before the 20
2nd October—that is your birthday in 1939—scrape pus off your tongue with a brush?—A. No.

Q. You didn't?—A. No.

Q. There is no doubt about that?—A. No.

His HONOR : The Witness says that there is no doubt about it, that she did not in fact, before the 2nd October, scrape pus off her tongue with a brush.

Mr. CASSIDY : But I read to you where you said you used to do it before the 2nd October. That would be quite wrong, would it?—A. Yes, that would be wrong. 30

Q. Dr. O'Hanlon saw you on the 19th September 1939, you have told us?—A. I don't remember the date.

Q. On that occasion isn't all that he prescribed for you an A.P.C. powder?—A. I don't know what it was. I had severe pain in the neck, and he gave me something—

His HONOR : Well, answer the question. You don't know what it was?—A. I don't know what it was.

Mr. CASSIDY : Did he prescribe A.P.C.'s for you?—A. No, he never said A.P.C.'s.

Q. Now, on the second trial—page 86, in the middle of the page— 40
this appears : "More or less you had pus coming into your mouth over a period of some three months before the 2nd October?" Your answer was "Yes." Is that right?—A. Yes.

His HONOR : Listen to the question, will you?—A. Yes, I have just answered "Yes."

Q. It is a fact, isn't it, that for some three months prior to the 2nd October—that is your birthday, 1939—you had pus coming into your mouth?—A. Yes, I had the taste of pus.

Mr. CASSIDY : Now this is another trial that I am asking you about now. This is page 88—" You used to scrape it off your tongue with a brush," and your answer was " Yes." " In the later stages before the 2nd October," and your answer was " Yes." You swore that, didn't you ?—A. I could not say that I swore it. I misunderstood it somewhere.

Q. If it is there, you must have said it ?—A. I must have said it.

Q. Did you see that letter to Dr. Ritchie of the 6th May 1939. (Handed to Witness) ?—A. Yes.

Q. That is a letter written by you, is it not ?—A. Yes.

10 Q. Did you swear on the last occasion that you were days writing that letter ?—A. I was quite a while.

Q. How long do you suggest you were writing that letter ?—A. Well, I forget, but I may have been a couple of days.

Q. A couple of days ?—A. Yes.

Q. Was your condition bad then ?—A. Well, it was not very good.

Q. What was troubling you ?—A. Well, when I would start to write, I would get cramps in the hands, and I could not go any further.

Q. What used to go wrong ?—A. I would get the tetany in the hands—the cramping, the drawing up.

20 Q. Would it be all very sudden ?—A. Yes.

Q. Would your pen drop ?—A. No, I would sometimes grip the pen very tightly.

Q. What would happen to it then ? Would it fall ?—A. I don't know what happened to it, but I would sometimes put it down. I would put the pen down instantly so that I would not have to go back and write the letter over again.

Q. Did that occur in Dr. Ritchie's letter ?—A. Well, it must have. I started it one day and I did not finish it till the evening of the next day.

30 was serious. Q. Of course, that condition would be pretty serious ?—A. Yes, it

Q. I will read the letter to you. It is quite good writing, isn't it ?—A. I could not say.

Q. It is your usual writing, isn't it ?—A. Well, yes.

Q. I mean, you see the word " Chicketer," is that your name ?—A. That is my nickname.

Q. Isn't it your real name ?—A. No.

Q. You call yourself " Chicketer," do you ?—A. No, they mostly call me " Chick."

Q. Well, you made it " Chicketer " ?—A. No.

40 Q. Where did you get the idea of " Chicketer " from ?—A. I did not get it at all. I don't like it.

Q. Why did you sign your letters " Chicketer " ?—A. Well, everybody calls me " Chicketer."

Q. Those letters are well formed, are they not ?—A. I would not call them well formed.

Q. And " Chicketer " is written very regularly ?—A. No, I would not call it well formed.

Q. Isn't that very well formed ?—A. There are a few blotches on it.

Q. Who calls you " Chick " ?—A. Oh, well, my family. (Objected to.)

50 Q. I will read it to you—" Sorry for the delay in sending the fee, which you will find enclosed, but I have been waiting for the return of my voice, which you teased me about " ?—A. Yes.

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Q. Did the doctor tease you about your voice ?—A. Yes.
Q. " It is much better than when I left St. Luke's. I would not be of any use in the Church Choir, yet " ?—A. Yes. Well, he used to say that I could pay the bill when I could sing in the Church Choir.

Q. Were you in the Church Choir ?—A. No, I was not.

Q. " Although now—don't laugh— "—it is a cheery letter, isn't it ?—
A. Well, I could not say.

Q. Is it a letter that you tell me now which took you two days to write ?—A. Yes, it did.

Q. And you remember it distinctly ?—A. No, I don't remember it distinctly. Only I know at that time I was more than two days writing letters. 10

Q. " Although now—don't laugh—I had visitors the other night and one of the gentlemen said, Doctor, You are beautiful " ?—A. Yes.

Q. " But, Doctor, I was not flattered. He had too much Cherry Brandy " ?—A. Yes.

Q. " The year has passed, but I am not yet well " ?—A. Yes.

Q. " I don't think you are a good prophet, but you were right when you said that I should not leave St. Luke's." Is that right ?—A. Yes.

Q. " It is a case of live and learn " ?—A. Yes. 20

(Letter tendered and marked Exhibit J.)

Q. Now in that letter there is no complaint of this gross swelling of the neck, is there—no complaint of the swelling in the neck. That is apparent, isn't it ?—A. Yes.

Mr. CASSIDY : Around about the same time you also wrote a letter to Dr. George Bell ?—A. Yes.

Q. Did that letter take a long time to write ?—A. Yes, it did.

Q. You told Dr. Bell not one word about swelling in your neck ?—
A. I don't remember.

Q. Not one word about the pus ?—A. I don't think there was pus coming into my mouth at that stage—what date is it ? 30

Q. This is what you said before, is it not ? " Did you say one word about this pus or inability to swallow or any of the things I have mentioned ?—A. No " ?—A. Not as far as I know—oh, you mean the letter that is missing from Court.

Q. Yes ?—A. Well, I did tell him things in that letter, that is why it is not in Court.

Q. That is the first time you have ever said that ?—A. I have only been asked about the letters that are in Court.

Q. That is the first time you have ever made that remark, isn't it, that there is something in that letter ?—A. Yes, well, I did. 40

Q. But that is the first time you have said it ?—A. I have not been asked about that letter to my knowledge.

Q. First of all, let us get it clear ? You heard Mr. Shand open that a letter was missing. You never at any time in any trial before suggested that there was anything in that letter in support of your case ?—A. I have not been asked.

Q. But I put to you now where you were asked about this particular letter ?—A. I did not understand that you were speaking about that letter. 50

His HONOR : Did you write to Dr. Bell more than one letter about the month of May 1939, about the same time that you wrote to Dr. Ritchie ?
—A. Somewhere about the same time as far as I can remember.

Q. Did you write one letter or more than one letter about the same time ?—A. I have written two letters to Dr. Bell.

Q. About the time you wrote to Dr. Ritchie in May ?—A. No. I cannot say.

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Mr. CASSIDY : You have only written two letters to Dr. Bell, one in May and one on 11th October ?—A. I cannot give you the exact
10 numbers really.

Q. Two letters that you have written to Dr. Bell only ?—A. Two or three I have written to Dr. Bell.

Q. On the last occasion you were asked " Did you write to Dr. Bell about May 1939 ?—A. Yes." Is that what you swore ?—A. Yes, I suppose it is.

Q. " And you said not one word in that letter about the swelling ?—A. I don't remember " ?—A. I don't remember the dates of the letters that I wrote to Dr. Bell.

Q. You just said that you wrote to Dr. Bell in May 1939 ? I asked
20 you the question, and you said " Yes " ?—A. You are telling me that.

Q. It is not what I am telling you, that is what you swore on the last occasion. There is no doubt about that, is there ?—A. No.

Q. " Did you say one word about having felt any foreign body, foreign object, or any pricking in your throat ?—A. No " ?—A. Yes.

Q. That is correct is it not ?—A. After the pus came into my throat.

Q. " Did you say one word about this or your inability to swallow or any of the things I have mentioned ?—A. No " ?—A. Yes.

Q. " About the same time you wrote a letter to Dr. Ritchie ?—A. I did " ?—A. Yes.

Q. Now, you remember the letter, don't you ?—A. No, I cannot say
30 that I do remember the letters.

Q. That is what you swore on the last occasion ?—A. Yes, somewhere round about the same time.

Q. And Madam, you said not one word about saying anything else to Dr. Bell in that letter, did you ?—A. I cannot say just what I said in the letter.

Q. I want to pass quickly to that tube that came out on the 5th October. I suppose if you took aperients you were expecting something
40 you swallowed to come away ?—A. No, not altogether.

Q. You took different aperients, did you not ; according to your evidence, Kruschen salts first, then paraffin, and then castor oil ?—A. Yes.

Q. You were expecting something to pass away, were you not ?—A. No, I was not.

Q. Was it accident that you saw something in the commode ?—A. Yes, it was.

Q. Purely accident ?—A. Not purely accident, but I did not know what to expect. I did not know what I had swallowed.

Q. Were you looking for something in the pan when you looked ?—
50 A. When I looked I was very ill and I can't say exactly what I was thinking about.

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Q. Did you take the aperient because you felt something sticking in your stomach?—A. Yes.

Q. After that really you were expecting something to come away from your stomach, were you?—A. I did not know what to expect.

Q. You took this object out of the commode, did you not?—A. Yes.

Q. Picked it up in your left hand, put the commode down, and picked it up with your left hand?—A. I picked it out, yes.

Q. With your left hand or with your right?—A. With my left hand.

Q. Was it a pan or was it a chamber?—A. It was a chamber.

Q. A large one?—A. No, a small one. 10

Q. Which you had put on to the floor and you picked this thing out and had this in your fingers and examined it?—A. Yes.

Q. That is the event, isn't it, madam?—A. I put it down and I picked it out in my left hand.

Q. And examined it?—A. I looked at it.

Q. And if something flicked back, did you use the left hand or the right hand to flick the thing back?—A. The right hand.

Q. So you had time to do that?—A. I did it very quickly.

Q. You then took the commode up again?—A. No, I did not pick the commode up. 20

Q. You then picked the chamber up again?—A. Yes.

Q. You squeezed that, what you called rubber, and you saw pus run out, that is what you swear, isn't it?—A. Yes.

Q. On the first occasion you swore to your own Counsel it was green?—A. Yes, a greenish yellow.

Q. But you didn't, did you? Greenish yellow—you know what I am going to ask you, don't you?—A. No, I don't.

Q. Madam, you did not swear it was greenish yellow on the first occasion. You swore it was green?—A. No, I didn't. I called it greenish yellow. 30

Q. You swore it was green, did you not, on the first occasion, to your own Counsel?—A. No, I don't remember that.

Q. Do you deny that you said it was green?—A. I said greenish yellow.

Q. On the first occasion?—A. Yes, always.

Q. Madam, didn't you change to greenish yellow after you had heard your own doctor, Prof. Welsh, say it could not be green, that it would be greenish yellow after being in the stomach for some days?—A. No, I gave my evidence first.

Q. You know that Dr. Welsh said, when it was put to him in cross- 40 examination what you said, that he said it could not be green?—A. No, I don't remember that.

Q. Do you forget that?—A. No, I said it was greenish yellow.

Q. Your Counsel said to you: "You said something about one end of this particular thing?—A. One end was torn, there was a slight cut in it; in the cut there was a swab with a piece of wire to it. I think it was wire—it was like wire"?—A. Yes.

Q. "Did you do anything with that?—A. Yes, I picked it out and I squeezed where the swab was. The pus ran down my fingers. Q. What colour was it?—A. It was green"?—A. Greenish yellow. 50

Q. You have agreed with everything that I have read there except that?—A. Yes, there is a word missing. I have always said greenish yellow.

Q. Green is not very much like greenish yellow. I mean for a shorthand writer taking down the notes. Green is not very much like greenish yellow?—A. You could miss the yellow in a hurry.

Q. "What colour was it?—A. It was green." Will you admit that that is what you said?—A. No, I cannot admit it, but I must have said it, but I did not mean it.

Q. You know that following that your medical evidence established that if a thing had been in the body, a tube, for three days it could not have green pus in it?—A. I don't remember that.

10 Q. Do you forget it?—A. Yes, I forget that.

Q. Look, it was a dramatic thing I put to you, madam? (Objected to.)

Q. That it was a most noticeable thing in your own case when your own doctor admitted that it could not be green pus?—A. No, I never noticed that.

Q. On each trial since you called it the same as the doctor said it might be, greenish yellow, haven't you?—A. I always did.

Q. "Which did you remove, the swab?—A. No, I did not remove the swab. Q. You squeezed it and green looking substance that you described as pus ran down your finger." Do you still say you described it as greenish

20 yellow?—A. Yes, green looking is not green.

Q. There are ten steps leading up to the rear portion of your property, are there not?—A. Eleven altogether.

Q. If I am facing the cistern the door of the lavatory room opens as my arm swings back on to the wall?—A. Yes.

Q. The door of the lavatory opens to the left?—A. Yes.

Q. The lavatory pedestal is placed over there. (Indicating)?—A. Yes.

Q. It is 4 feet 9 inches from the door?—A. I don't know how far.

30 Q. You gave evidence that you crawled and held on to the chairs and the side of the wall on that day, that you were so ill, did you not?—A. Yes.

Q. The height of your ceiling is 8 feet—you remember those figures, do you?—A. No, I don't remember those figures—8 feet?

Q. Yes?—A. No, I don't think so.

Q. The cistern hangs with the bar extended and the chain coming down outside the line of the pan?—A. Yes.

Q. You swore to His Honor, did you not, on the first occasion, that you were leaning against the open door with your left arm, that you emptied the chamber pot with your right and that you pulled the chain with your left? (Objected to.)

40 Q. You agreed with me before Mr. Shand made that objection, didn't you?—A. I cannot see, only the top of your head.

Q. What stops you seeing me?—A. I am sitting down. I cannot see you.

Q. Will I do it again?—A. Yes.

Q. With you leaning against the open door, the chamber you were pouring into the pan and your left hand pulling the chain?—A. No, I had my back more against the door than you have got it.

Q. Bent from your illness?—A. Yes.

50 Q. Bent as much as that. (Indicating)?—A. I don't remember how much I was bent.

Q. You described it before?—A. Yes.

Q. And is that about it. (Indicating)?—A. Yes.

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Q. With the chamber like that (indicating) and your left hand grasping out for the chain?—A. I emptied the chamber first; I emptied it and reached for the chain.

Q. Did you hold the chamber over the pan to empty it?—A. No, I just emptied it and it went down and then the action of pulling the chain.

Q. Did it go in while you were emptying the chamber?—A. No.

Q. So you moved the chamber away?—A. No, I cannot tell you where the chamber was placed now, but I had already emptied it and I was about to pull the chain.

Q. Had you straightened up?—A. No. Our lavatory is not very 10 high, it is on the verandah and I cannot tell you how high it is.

Q. The chain is right across on the right hand?—A. No, it is not right across, the lavatory is only 2 feet wide.

Q. Will you agree that you swore before that you were still leaning against the door when you pulled the chain?—A. Yes.

Q. That represents the cistern, does it not (booklet shown to Witness)?—A. Yes.

Q. And that is the position of that chain on the cistern?—A. Yes, the toilet is not much wider than the cistern.

Q. Then you will agree with me, will you not, that the end of the 20 chain is 4 feet 9 inches from the ground?—A. No, it can't be.

Q. You heard evidence given on the last occasion about?—A. I don't know the measurements.

Q. You heard the building inspector give measurements of it?—A. Did he measure it?

Q. Yes?—A. I don't know the measurements, but it is not that high. (Booklet m.f.i.2.)

Q. When you told your husband this incident occurred he did not believe you at first, did he? (Objected to—objection withdrawn.) Your husband at first did not believe you on that incident?—A. He never 30 disbelieved me. I never heard of him disbelieving me until now.

Q. Never heard of it?—A. No, I did not.

Q. It was not until the evening after that Dr. O'Hanlon called around?—A. Was sent for.

Q. At that time were you still feeling ill?—A. Yes, I was very ill.

Q. What startled you when you heard someone coming?—A. I heard someone coming up the cement steps.

Q. But it was only your husband, wasn't it?—A. I did not know it was my husband.

Q. Had he started to come up the steps?—A. Whoever it was was 40 coming up the steps, I did not know who it was.

Q. I suppose you could have closed the door?—A. No, I could not have closed the door.

Q. Why not?—A. I was only crawling around and the toilet is so small that if I turned around to close the door I was so weak it may have taken me a week to do it, and I may have fallen over, it is so small that you have to get out to close the door.

Q. Holding this, did you have to clamber in the door?—A. I got in the door.

Q. How did you manage to get in?—A. I sort of crawled in. 50

Q. You had the chamber in one hand and this thing in the other, how did you crawl?—A. I got from one thing to another and got along the best I could.

Q. What was one thing to another ?—A. From the wall to the wall, it is not very far.

Q. From the verandah to the toilet ?—A. Yes.

Q. When you saw this thing, as you told us before, you realised that it was what you had swallowed and it was what you had been looking for ?—A. I did after a while, but immediately I did not.

Q. You told us last time when you saw it you did ?—A. When I had time to think, I was ill.

10 Q. But did you swear last time when you saw this object you realised what it was you swallowed and you said then “ I realised it must have been what I swallowed ” ?—A. Yes.

Q. Then you said “ I thought it was what I had been looking for ” ?—A. I really was not looking for anything.

Q. I have read you what you agreed you swore last time, was that true ?—A. Yes.

Q. “ And you thought at the time it had come or must have come from the site of the operation ?—A. Yes ” ?—A. Yes.

Mr. CASSIDY : There is no question that was your condition of mind at that stage ?—A. Yes.

20 Q. I want you to read what you said in the first trial, page 40 : “ It was well in your mind this was the thing you had swallowed three nights before,” and you answered “ Yes ” ?—A. Yes.

Q. Is this correct. When you saw Dr. Marsh, he told you you had slight tonsilitis ?—A. No. (Question objected to ; admitted as leading up to something else.)

Q. You agree with this, page 48, line 30, third trial, “ When you were examined by Dr. Marsh, the only thing Dr. Marsh told you was you had a slight infection in the left tonsil ? ” And you said “ Yes ” (Objected to ; admitted)—A. Yes, he said I had a bad left tonsil.

30 His HONOR : He did not say a slight infection ?—A. No, he said I had a bad tonsil.

Mr. CASSIDY : On the last occasion you agreed with that statement, that he said you had a slight infection ?—A. I may have.

Q. The next question was, page 135, I will read : “ The only thing said to you was there was a slight infection in one tonsil ” and you said, “ He said that, something like that.” Is that right ?—A. Yes, he said something to that effect.

40 Q. “ When Dr. Marsh said that to you it was the first occasion on which you knew or thought that this tube had ruptured through your tonsil,” and you said “ Yes ” ?—A. I may have said “ Yes ”.

Q. You meant it ?—A. No, I did not. I was sent to Sydney for treatment for my tonsils.

His HONOR : Did you mean it when you answered that question in that way ?—A. Yes, I suppose I did.

Mr. CASSIDY : You did not misunderstand the question ?

His HONOR : Did you designedly answer it incorrectly ?—A. It was not in a way incorrect. I knew I had a bad tonsil before I came to Sydney.

50 Q. When Dr. Marsh said that to you, it was the first occasion on which you knew or thought this tube had ruptured through your tonsil ; you answered it “ Yes ” ?—A. Yes, I knew.

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Q. Was it right?—A. Yes.

Q. It was only he said those few words, you thought the tube had come through your tonsil?

Mr. CASSIDY: And you answered "Yes," is that right?—A. Yes.

Q. You said the same thing at the first trial?—A. I do not remember what I said at the first trial.

Q. (Page 48, line 35 referred) "At the time you were of the opinion this thing had come out of your tonsils . . . it was only after Dr. Marsh saw me"?—A. Yes.

Q. I have put it to you, after you left Quirindi Hospital in June 1938 10 or at the latest in July 1938, when Sister Sly left your house, your complaint was spasms and your swelling was not the trouble. What do you say to that?—A. Spasms and swelling.

Q. Do you remember on the first trial when you gave evidence of the later spasms, you said that your hands came up and clenched like that with your thumbs outwards?—A. No.

Q. In the later trials you never once put your hands like that, put them in the accoucheur hand, like that (indicating)?—A. I never put my thumbs out. Mr. Monahan did in cross-examination, and you have kept it up since. 20

Q. You have been asked about it before?—A. Yes.

Q. Dr. Ritchie was in Court, and he gave evidence of you doing it at that very trial?—A. I do not remember. (Question objected to; not pursued.)

Q. You deny you have ever put your hands with your thumbs out?—A. Yes.

Q. And it has always been the accoucheur hand?—A. Yes.

His HONOR: Do you know what an accoucheur hand is?—A. Yes, I have heard of it before. The thumbs were always drawn in.

Mr. CASSIDY: I put it to you, your accoucheur's hand was in the 30 early stages of your tetany; your fingers were always extended like that, were they?—A. Sometimes they would be straight and sometimes they would gradually draw round.

Q. As much as you have indicated now?—A. Yes.

Q. Would they ever get into your flesh?—A. Yes.

Q. So they would come right round into your flesh?—A. Yes, I have had the palm of my hand cut.

Q. With the thumb where?—A. On the inside.

Q. How were your thumbs then?—A. In the palm of my hand.

Q. Were your finger nails biting into your hands?—A. Yes, my 40 finger nails were very long.

Q. So they went over the thumb into the hand?—A. No.

Q. You had the thumb under?—A. No, they are short. I can still cut into my flesh with short finger nails.

His HONOR: The thumb does not protect your finger nails sticking into the palm of your hands?—A. No.

Mr. CASSIDY: Did you feel that?—A. Not while the tetany spasm was on. I was with pain. I did not notice cuts until afterwards.

Q. Did you notice cuts afterwards?—A. Yes.

Q. You noticed the cuts afterwards?—A. Yes, when I was well I 50 would notice cuts.

Q. So they made a series of cuts across your hands ?

His HONOR : Broke your skin ?—A. Yes.

Q. Bring blood ?—A. No, it would not bring blood, but it would be painful.

Mr. CASSIDY : How long painful for ?—A. Well, you could feel it.

Q. How long afterwards ?—A. I could not say how long.

Q. A couple of days ?—A. I would not say how long really.

Q. Your description of this was previously, your hands were drawn around tight and your finger nails cut into the flesh of your hand. You
10 said : “ Yes, at the later stages ” ?—A. Yes.

Re-examined.

Mr. SHAND : You were asked about certain prescriptions or mixtures that you got from the chemist. The witness tendered on previous occasion certain prescriptions. (Objected to ; withdrawn.)

(Bundle of prescriptions and accounts tendered ; shown to Jury and marked Exhibit K.)

Q. You were asked about 1937, that is before you had come under Dr. Bell, when you were in Quirindi Hospital, something was said about your weight. You went in on the 19th October. It was put to you that
20 on the 2nd November your weight was 6.13. Is this correct. On the first entry, I notice : “ Foods forbidden ; meat extracts, broths, tea, coffee and alcohol ” ?—A. Yes.

Q. After your weight had gone down, I see on the 3rd November it is reported that you “ may have a grilled steak to-morrow ” ?—A. Yes.

Q. On the 6th, four days after you weighed 6.13, your weight was given as 7.2½ ?—A. Yes.

Q. It had gone up 3½ lbs. in four and a half days ?—A. Yes.

Q. Apparently you were eating more then, were you ?—A. Yes.

Q. You were asked about your nervous condition when you went down
30 to Dr. Flynn. Do you know that he is a skin specialist ?—A. Yes.

Q. You were asked by my friend (page 21 of the last hearing) : “ Did you regard him as a gentle man.” My friend read your answer : “ Not altogether rough ; well, yes, he would be gentle.” Just before that were you asked : “ Did you tell them,” that is the staff at the hospital, “ That Dr. Bell was a very gentle man ” ? You said “ No.” You were asked “ Never ” ? and you answered, “ No, never.” Is that correct ?—A. Yes.

Q. My friend asked you when you were at St. Luke's the second time, whether you told some member of the staff that you adored Dr. Bell ?

Mr. CASSIDY : I did not put it the second time.

40 Mr. SHAND : You were asked whether you adored him ?—A. No, I did not adore him.

Q. But you were asked whether you told any of the staff that ?—
A. Yes.

Q. You said that you used the word but you did not use it in the way suggested ?—A. No, that is so.

Q. What were the circumstances ?—A. Two or three nurses were in the room, they were singing Dr. Bell's praises, I could see that they wanted me to say something, and I said that I adored Dr. Bell.

*In the
Supreme
Court of
New South
Wales.*

*Plaintiff's
Evidence.*

No. 6.

Stella
Eileen
Hocking,
1st
December,
1943,
Cross-
examina-
tion,
continued.
Re-examin-
ation.

*In the
Supreme
Court of
New South
Wales.*

*Plaintiff's
Evidence.*

No. 6.
Eileen
Stella
Hocking,
1st
December,
1943,
Re-examin-
ation,
continued.

Q. With clenched teeth ?—A. Yes. It was no compliment.

Q. Was it after you had been all through this trouble ?—A. Yes.

Q. You gave evidence of an occasion when you were in the Quirindi Hospital the first time, that you turned your neck and felt something catch or stick in you ?—A. Yes.

Q. There was bleeding. You wiped it off ?—A. Yes.

Q. I refer to pages 79 to 80 : " You felt something sticking into your neck . . . was the blood actually flowing "—" Yes." Did you say that ?—A. Yes.

Q. It goes on : " Who cleaned this up." I will read it all. " Do 10 you remember who it was . . . down to the nurse finished it up when she came." That is the evidence you gave ?—A. Yes.

Q. " I understand you to say . . . junior nurses " ?—A. Yes.

Q. You were asked about the sketch you made of the tube. You told my friend that you only made one sketch ?—A. Yes.

Q. Did you make it better ?—A. Yes, I made it darker.

Q. On the first occasion, the day that you came out, you started it. Later on you made it darker ?—A. Yes.

Q. Have you had change of life ?—A. No.

Q. My friend referred to this little tube which was made up. Did 20 you say this in the second trial, page 25, " Is that a fair representation of the thing you saw . . . it would give one an idea " ?—A. Yes.

Q. " Is that a fair representation of the thing you saw . . . rough representation of what you saw " ? And did you say " Yes " ?—A. Yes.

Q. Page 26, second paragraph : " Is there anything about that you would like to suggest is wrong . . ." and did you say : " Yes, it is a fair representation . . . because you squeezed it, yes " ?—A. Yes.

Q. I am dealing with the first trial. Do you remember being asked some questions of your food being affected in some way. You were asked at page 53 : " Did not you also on this occasion charge your husband . . . 30 I said my food had been tampered with." Is that what you said ?—A. Yes.

Q. Dr. O'Hanlon was your private doctor ?—A. Yes.

Q. Did you ever give him any permission to divulge confidence ?—A. No.

Q. Did he ever tell you he was going to tell the Defendant private confidences you had with your own doctor ?—A. No.

(At this stage the further hearing was adjourned until 10 a.m. on Thursday, 2nd December 1943.)

IN CAUSES.

Coram : EDWARDS, J., and a Jury of four.

HOCKING V. BELL.

40

Third day—Thursday, 2nd December 1943.

PLAINTIFF :

Further re-examined.

Mr. SHAND : You were asked about when the tube came out in your neck you felt this pain. What did you see in the doctor's hand ?—A. I saw a piece of dark object, tube, in his fingers about half an inch protruding.

2nd
December
1943,
Re-examin-
ation,
continued.

Q. You were asked about the lavatory, which is on the verandah of your place I understand?—A. Yes.

Q. The door comes inwards. When it opens inwards and swings back, how close does it come to the pan?—A. Within 2 or 3 inches of the pan, the seat, it comes that close.

Q. How close were you standing to the pan?—A. I was standing quite close to the pan.

10 Q. You were asked by my friend whether the tube you took out of the chamber was not a different size to that you noticed in Dr. Bell's hand and you said "Yes". What was the appearance?—A. A lighter grey, swollen.

Q. You were asked whether you said before that the tube was inserted in the right side and appeared to come across to the left. (First trial, page 41, line 44, referred to):

"Q. You are not suggesting it was in that way with the wire inwards. You have told us it went straight in on the right side of your throat?—A. It went in on the left, from the right to the left."

A. Yes, from the right to the left.

20 Q. On page 23 you were again asked in cross-examination (First trial, line 5):

"Q. And do you say that is where you felt the pain that you described?—A. Yes.

Q. That is the opposite side to the side you say the tube was left in?—A. No.

Q. I thought you said the tube was in the other side?—

A. It was the right side that Dr. Bell removed the tube.

Q. What side of your throat do you say the tube was in?—

A. The left side."

30 A. Yes.

Q. You were asked when the tube was removed by Dr. Bell did you say anything about any part of the tube remaining. Had you any idea there was any part remaining?—A. No.

Q. Had you confidence in your doctor?—A. Yes, every confidence.

Q. You were asked about a statement your husband had struck you, to Dr. O'Hanlon, I mean?—A. Yes.

Q. When Dr. O'Hanlon asked that—(Objected to).

Q. How did it come about, a statement of Dr. O'Hanlon about you?—

40 His HONOR: What conversation did you have with Dr. O'Hanlon?—A. I forget how it started, but we were talking. I was in bed. He came to see me. Something came up about being spanked. I said I had been spanked. He asked my daughter had I.

Mr. SHAND: Was your daughter there?—A. No, he called her in.

Q. You are living happily with your husband?—A. Yes.

Q. Suggestions were made that you were suffering from some hysteria. Did you hear any such suggestion before the first trial?—A. None at all.

Q. You had seen Dr. Bell on many occasions?—A. Yes.

Q. And Dr. Ritchie?—A. Yes.

50 Q. And Dr. O'Hanlon of course?—A. Yes.

*In the
Supreme
Court of
New South
Wales.*

*Plaintiff's
Evidence.*

No. 6.
Eileen
Stella
Hocking,
2nd
December,
1943,
Re-examination,
continued.

*In the
Supreme
Court of
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*Plaintiff's
Evidence.*

No. 6.
Eileen
Stella
Hocking,
2nd
December,
1943,
Re-examin-
ation,
continued.

Q. Were you given any treatment for hysteria?—A. No. (Question objected to.)

Q. Did Dr. Bell ever mention any treatment for hysteria?—A. No.

Q. It was put to you that you had mentioned the colour of the pus, green, and changed it to greenish yellow. It was suggested after Professor Welsh had given evidence—you remember that suggestion?—A. Yes.

Q. You said it was green looking. You were referred to that?—A. Yes.

Q. It was suggested you changed the colour to an extent after Professor Welsh had given evidence. Is that what Dr. Welch said at page 113 about it, line 24, first trial: 10

“Q. You remember the Plaintiff described the piece of rubber she found in her commode as being greyish in colour?—A. Yes.

Q. That is red that you have got?—A. Yes.

Q. If that rubber were within the body in some position for a period of some 18 months what would be the colour of it?—A. I think it could be greyish.

Q. And would it be the same size or might it be larger or smaller?—A. I think it might relax and appear larger.

Q. You remember the Plaintiff described that when she pressed 20 it there was a greenish pus came away?—A. Yes.

Q. What do you say about that, is that the colour of pus you would expect from an infection as described?—A. It is consistent with the colour of the pus that you would expect.

Q. A liquid that passes out of the body as a rule after purgatives, I suggest to you is a brownish colour, isn't it?—A. After a good dose of oil it is a pretty light colour.

Q. And not green by any chance?—A. No.

Q. You would expect a swab that passed in it, that has been lying in a commode that has had the results of a motion being 30 passed, you would expect the fluid in that swab to be green. In the matter, of course, wouldn't it be brown?—A. Yes. If the material in the commode was free and had free access to the interior of the tube, yes, I would expect it to be brown.

Q. If the tube had been swallowed on Monday afternoon and it remained in the digestive tract until Thursday morning after two previous aperients had been administered, and finally expelled under the influence of a dose of castor oil, would you expect that filled tube, if that tube had had any pus in it, that the pus would still remain in it, or would you expect it to be dispersed during 40 its passage through the bowels?—A. In those circumstances I would expect it to be largely dispersed.

Q. And would you expect what was left to be the colour of the fluid that came out of the bowel?—A. I understand one end of the alleged tube was plugged.

Q. Supposing one end was plugged with something and the other end was open?—A. It might retain some of the pus.

Q. Would you expect generally the colour of it to be the same colour as the liquid in the commode?—A. Yes, generally.”

That was what was said by Professor Welsh?—A. Yes.

Q. Before you gave evidence in the first trial had you ever seen any of the hospital records or any copy of them?—A. No, I have not seen any yet.

Q. You have been asked various questions as to what you said on the first, second and third trials?—A. Yes.

Q. On the second trial how long were you cross-examined, approximately?—A. Nine or ten hours.

Q. It was suggested that you had intentionally restricted your evidence as to your unconsciousness. That was suggested to you by 10 Mr. Cassidy?—A. Yes.

Q. By the way, had Dr. O'Hanlon and Nurse Abberton already given evidence as to your unconsciousness in previous trials?—A. Yes.

Q. In the first trial did you say this—(page 13, line 23):

“Q. You might describe that turn you had when you were taken by Dr. O'Hanlon?—A. I was unconscious when I was taken by Dr. O'Hanlon, I don't remember it. I found myself in hospital the next day.”

Did you say that?—A. Yes.

Q. And at page 15, line 20, dealing with the 2nd October 1939, the 20 question was: “Just detail what you remember of your condition,” and the answer: “I had lost consciousness several times during the day and I was constantly drawn up for two days, my limbs had not been straight for two days”?—A. Yes.

Q. And at the top of page 16 the same incident is repeated:—

“Q. Now, just tell us what happened, what you noticed. Describe it in your own way?—A. I had lost consciousness several times during the morning, I know, partly conscious, and my husband came home and I regained consciousness just a little and started to cough and I was drawn right up into a ball, I started to cough 30 and I had something in my mouth, I swallowed it.”

That was what you said about unconsciousness?—A. Yes.

Q. When you were in St. Luke's on the first occasion, is this the prescription Dr. Bell gave you?—A. Yes.

Q. And the second one I turn to dated 31st October 1939, is that the prescription that the doctor gave you? Is that the prescription Dr. Bell gave you then in his writing. (Shown to Witness)?—A. Yes.

(Tendered and marked Exhibit L.)

Q. After you had this operation at St. Luke's did you go to the pictures at all?—A. No.

40 Q. How long would you say it was since you had been?—A. I could not say how long it was since I had gone to the pictures, but I was not down the street and like dressed up in the shop for just over two years.

Q. Was it after that you went to the pictures?—A. Yes, it was my first outing down the street.

Q. Did you ever at the first trial give any demonstration of tetanic spasm with your thumbs out?—A. No.

Q. Will you show with your thumb in how your fingers closed? (Witness complies.)

50 Q. You were cross-examined on the fact that in September when you were in hospital two days, it was put to you that you complained to the nurses about your husband or his conduct?—A. No, never. I never heard that until yesterday.

*In the
Supreme
Court of
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*Plaintiff's
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No. 6.
Eileen
Stella
Hocking,
2nd
December,
1943,
Re-examin-
ation,
continued.

*In the
Supreme
Court of
New South
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*Plaintiff's
Evidence.*

No. 6.
Eilee,
Stella
Hocking,
2nd
December,
Re-examin-
ation,
continued.

Q. It was never suggested at any trial before ?—A. No, never suggested until yesterday.

Mr. CASSIDY : You remember you swore that the doctor told you you were to lie in bed in hospital after the operation on the right side ?—A. Leaning to the right side.

Q. You were asked " Which side were you lying on," and you said : " On the right, across the right side of the bed " ?—A. Yes.

Q. And then later : " Do you remember anything about a tube . . . so my throat would be stained " ?—A. Yes, I was sitting up in bed the whole time and lying on my right side—

Q. You were in bed and the way you were in bed was like that— (indicating)—with your head back ?—A. No.

Q. Yesterday was the first time you ever mentioned that you were told to lie on your right side. It was the first time you ever mentioned that ?—A. I do not remember that, but I had to lay on my right side. I was sitting up in bed.

Q. Yesterday was the first time you mentioned it ?—A. No, I think it has been mentioned at one of the other trials.

Q. Can you tell me which one ?—A. No, I could not say which one.

(Witness retired.)

(Mr. Cassidy : What is in these notes will be agreed to be put in I take it.

His Honor : Mr. Shand does not require so far as you are concerned nor do you require so far as Mr. Shand is concerned the calling of shorthand writers to prove the passages referred to.

Mr. Cassidy : No.

Mr. Shand : That is so ; that is the agreement.

Mr. Cassidy : We say that records the evidence which was given.

His Honor : And it is a true record.

Mr. Shand : Yes, it correctly records all the evidence.)

No. 7.

EVIDENCE of Marion Isabel Sly.

Sworn, examined, deposed.

No. 7.
Marion
Isabel
Sly,
2nd
December
1943,
Examina-
tion.

To Mr. SHAND : I am a qualified nurse. I did my training at Prince Alfred. I have attended a very large number of cases. I had never before attended a tetany case. I went up to look after Mrs. Hocking in June 1938. I do not just remember the exact date. I was there about five weeks.

Q. Mrs. Hocking had come out of the hospital some time before ?—A. Well, yes, I brought her home from the hospital.

She was then generally very weak and nervy and of course she was put straight to bed. I have given a statement to the other side as well. I was interviewed by them as well.

Q. Had the wound healed up when she first came home ?—A. Yes.

Q. But when she first came home had it healed up ?—A. No, not quite.

Q. Take with regard to the time you left; when did it heal up?—
A. I cannot remember. I do not think it was very long afterwards.

It was some time before I left. When I went there I was told something by Dr. O'Hanlon as to what I might expect. After I got there I noticed on occasions Mrs. Hocking in a certain condition. She would have these spasms.

Q. When she had them how would she show it. What would she do?
—A. They would come on rather suddenly. She would start with spasms of the limbs and become very rigid and then she would lose consciousness
10 for a period.

Q. Contraction of the limbs. What would happen?—A. They would be drawn up towards her body, and the same with her legs. (Witness demonstrates.)

I do not know how her fingers were placed. The legs were drawn up too, brought to the body. There was rigidity. On those occasions I immediately got into touch with Dr. O'Hanlon. He used to give her calcium and intravenous injections. Later on there was some other injection, paroidin. That was later on. I remember difficulty at a certain stage in giving her calcium injections. I remember one day when the
20 doctor was unable to find the veins to give the injection. When she had these injections she would gradually come out. I do not remember very much. The spasms would relax. I do not remember very much about massage but I do remember we gave her massage. I do not remember who gave it to her. I may have given it to her, but I just cannot remember clearly.

Q. What about a doctor?—A. I am not clear on that point.

Q. You are not clear whether it was you or the doctor? What was the position?—

His HONOR: What are you not clear about?—A. Whether I gave
30 massage or the doctor gave massage.

I am not sure whether I massaged her myself, I cannot remember clearly.

Q. Can you remember clearly whether she was massaged or not?—
A. Yes, I fancy.

To Mr. SHAND: I have had a great many cases since. I remember the appearance of her face and neck. It was very puffy and the hands were a little puffy also. It continued while I was there. She did not do any housework while I was there.

Q. What was her condition generally?—A. She got up for a short
40 period and towards the latter part she was able to take a few steps by herself. When I left she was improving a little.

I noticed her neck was a little puffy.

Q. What do you say about movement?—A. There was a little stiffness. When I was first there I remember using dressing on the neck. I put one or two dry dressings on the neck. There was a little serous discharge, watery clear.

Cross-examined:

Mr. CASSIDY: This was the course of events; you stayed with
Mrs. Hocking from the time she came out of Quirindi Hospital for five
50 or six weeks—is that right?—A. Yes.

Q. During that time the neck improved, did it not?—A. Yes.

*In the
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*Plaintiff's
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No. 7.

Marion
Isabel
Sly,
2nd
December
1943,
Examina-
tion,
continued.

Cross-
examina-
tion.

*In the
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*Plaintiff's
Evidence.*

No. 7.
Marion
Isabel
Sly,
2nd
December
1943.
Cross-
examina-
tion,
continued.

Q. And the position was that when you left, apart from the spasms, there was nothing you could see seriously wrong with Mrs. Hocking?—

A. No.

Q. The opening in the neck, when you attended it in the early part, had a little serous discharge?—A. Yes.

Q. It was very thin?—A. Yes.

Q. During the time you were there the wound completely healed?—
A. It did.

Q. It was not suppurating?—A. No.

Q. And there was no inflammation at the side of the wound?— 10
A. No, just her neck was a little puffy.

Q. But not the slightest sign of inflammation. That is, of course, something that nurses and doctors look for?—A. Yes.

Q. Is this what you said last time :

“Q. And the condition of her neck was not such so far as you could see that would require any medical attention in any way?—

A. No.” (Page 45, third trial, line 41.)

A. Yes.

Q. That puffy appearance applied to the face?—A. And the hands. 20

Mr. SHAND : And I think you said the neck?—A. And the neck ; face, hands and neck.

Mr. CASSIDY : At the time you left her general health was improving and she was gaining strength?—A. Yes.

Q. And did not require any further nursing?—A. No.

Q. I suppose you have passed examinations?—A. Yes.

Q. Do you know that tetany and hysteria, that the diagnosis becomes a very difficult thing?—A. No, I do not know.

Q. I think a year after you left you had a letter from Mrs. Hocking?—
A. Yes, about 12 months later. 30

Q. At that time did she tell you she was getting a lot better?—
A. She said she had one spasm.

Q. She made no complaint to you of any swelling in the neck?—
A. No, not so far as I remember.

Q. Have you the letter?—A. No.

Q. And she thanked you in the letter for bringing her back to health?—
A. I do not remember. She said she was feeling much better.

Q. Do you remember this question last time—“She thanked you for having nursed her and brought her back to health.” That is correct, is it not?—A. Yes. 40

Q. You saw Quirindi Hospital when you were up there?—A. Yes.

Q. It is a well-run hospital, is it not? (Objected to.)

Q. I suppose you are interested in seeing how hospitals are run?—
A. I only visited the patient's room.

Q. So far as you could see, was it a hospital giving great attention to its patients? (Objected to ; objection not pressed ; not pursued.)

Q. This lady you described was very, very nervy?—A. Yes.

Q. I think you put her as an extraordinarily nervous woman, is that so?—A. Yes, she was very nervy.

Q. Did she get very depressed at time?—A. Yes. 50

Re-examined :

Mr. SHAND : I suppose you have come across patients who have been through a year's serious illness, have you, at different times?—

A. Yes.

Q. And found them nervy?—A. Yes.

Q. You were asked about receiving a letter about 12 months after. Do you remember how far you placed it after? (Objected to.)

Q. You said about 12 months? (Objected to.)

10 Q. When you said about 12 months, can you say within what limits you received the letter?—A. Twelve to 18 months.

Mr. CASSIDY : You knew this lady had been operated on, had come out of hospital in Sydney about April 1938. You were with her as early as June 1938, is that right?—A. Yes.

(Witness retired.)

*In the
Supreme
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*Plaintiff's
Evidence.*

No. 7.

Marion
Isabel
Sly,
2nd
December
1943,
Re-examination,

No. 8.

EVIDENCE of Jessie Mary Nancarrow.

Sworn, examined, deposed.

No. 8.
J. M.
Nancarrow,
2nd
December
1943,
Examination.

To Mr. SHAND : I live with my husband at Gunnedah. I used to live at Quirindi. I was living in Quirindi in 1938. I was aware that
20 Mrs. Hocking had come down to Sydney to St. Luke's Hospital and had been in Quirindi Hospital after that. After she came out of Quirindi Hospital in 1938 I saw her. There was someone, Sister Sly, a nurse looking after her there. I visited her. With me was my husband and my two children. I knew the Hockings, of course.

Q. What was her general appearance?—A. She was desperately ill and her throat was all swollen underneath here (indicating) and her face was very puffed and when she turned to the left she had to move portion of her body because her throat would not allow her to move her head at the same time.

30 I knew her very well. She was not in the room when I came in. She came from the bedroom, assisted. She was in her dressing-gown. Her throat was not bare. It was rolled, there was a piece of flannel around. I saw the swelling just around here (indicating). I could not see the rest of her throat. I could see her face. Her voice was very, very husky.

To His HONOR : I saw swelling near the chin.

To Mr. SHAND : The bandage covered the rest. I could see underneath here (indicating).

Q. Was she anything like she looked before her sickness?—A. No.

Q. Did she look like she looks now?—A. Definitely not.

40 I visited her the following year.

Q. Was your husband moved?—A. We were moved to Gunnedah. We went to live there in 1939.

I saw her the night we left for Gunnedah. That would be April 1939.

Q. When you went into the house, was she in the living room or sitting room?—A. No, she came from the bedroom and was assisted out into the lounge.

*In the
Supreme
Court of
New South
Wales.*

*Plaintiff's
Evidence.*

No. 8.
J. M.
Nancarrow,
2nd
December
1943
Examina-
tion,
continued.
Cross-
examina-
tion.

She was still in her dressing-gown. She had to be assisted to walk. I noticed her voice was very husky, just the same. Her face was still swollen. Her neck was still "rolled."

I went back to Quirindi on business the same year, some time later. I saw Mrs. Hocking for just a few moments at that time. She was still in her dressing-gown. She was never at any time dressed.

Q. Was there anything on her throat?—A. Yes, it was still there. Her voice was still the same.

We went to the pictures regularly. We went every change of programme, twice a week, my husband and self. During that period, until I left Quirindi, I never saw Mrs. Hocking at the pictures, or about the street. 10

Cross-examined :

Mr. CASSIDY : Are you giving the same evidence as you did on the last occasion?—A. Definitely.

Q. You say now you saw her in July 1939?—A. No, 1938.

Q. Was it twice or three times you saw her?—A. I saw her in April when we left for Gunnedah.

Q. It was April 1939?—A. April 1938.

His HONOR : Oh, you left in 1938 for Gunnedah?—A. Yes. 20

Mr. CASSIDY : Has your memory all gone wrong. April 1938 she was in Sydney?—A. We have been in Gunnedah four years, so it must have been 1939, I am sorry.

Q. You saw her first of all in June or July 1938, when Sister Sly was there, is that right?—A. Yes.

Q. You said this morning that she could not move her neck?—A. I did.

Q. Did you see her attempt to move her neck?—A. She could not move it. She had to move her body when she was sitting in the chair.

Q. Was her face looking straight ahead?—A. She definitely was not facing me. 30

Q. Do you say that was her condition, she could not move her neck?—A. She had to turn her body like that (indicating) portion of her body.

Q. Holding her head firm?—A. Yes.

Q. You did not tell us one word of that on the last occasion?—A. I was not asked.

Q. On the last occasion you said there was slight swelling underneath her neck, jawbone?—A. No, I said there was swelling under here (indicating), from where I could see, where it was bandaged.

Q. It was slight swelling?—A. I did not say slight swelling so far as I remember, but I said swelling. 40

Q. I will read what you said : " There was slight swelling under here (indicating jawbone)." Did you call it slight swelling this morning?—

A. No, I said swelling.

Q. Was it slight swelling?—A. No, a swelling.

Q. Did you swear last time : " There was slight swelling underneath here (indicating jawbone) " ?—A. No, I said there was a swelling.

Q. Do you remember that you did not use the word " Slight " ?—A. Yes, I do ; it was more than slight.

Q. Seriously, you tell me that you did not use the word " slight " on the last occasion?—A. Yes. 50

Q. Have you a good memory ?—A. I think I have.

Mr. CASSIDY : This is what you then went on to say, is it not : “ I did not notice anything about the lower part of the neck, only that she had it rolled up in a piece of flannel.” That is what you swore, isn't it ?—A. Yes.

Q. You visited her again in April 1939. That was when you were going away to Gunnedah ?—A. Yes.

Q. You made that visit on a Sunday afternoon, did you not ?—A. That is right.

10 Q. Did you swear this morning that she was assisted out of the room ?—A. Yes.

Q. You did not give that evidence before did you ?—A. Yes, definitely.

Q. Who assisted her ?—A. Sister Sly brought her out.

Q. But Sister Sly had gone a year before ?—A. In 1939 ?

Q. Yes. Who assisted her out ?—A. Her husband assisted her out. That is correct. Her husband brought her out.

Q. You did not say that before, did you ?—A. I was not asked.

Q. You were not asked ?—A. No.

20 Q. How was she dressed that day ?—A. In her dressing gown.

Q. She had a dressing gown, did she ?—A. Apparently, she did.

Q. This is what you said last time : “ When I got there Mrs. Hocking definitely was not in the room I was shown into ” ?—A. No, she was not.

Q. “ She came from the bedroom ” ?—A. That is right.

Q. “ She was very shaky in walking ” ?—A. Yes.

Q. Now I put it to you again, do you swear that last time you were not asked about that incident of her coming out ?—A. No ; I was only in the box about three minutes—no longer.

Q. Well, that is a little exaggerated, isn't it ?—Only in the box three minutes ?—A. No, it definitely is not.

30 Q. Do you remember that accurately ?—A. Yes.

Q. Well, how ?

His HONOR : How long have you been in this time ?—A. Well, I don't know—about 10 minutes, I should say.

Mr. CASSIDY : On that occasion I put it to you that her neck was then in the condition that you did not notice anything about it—in July 1939 ? (Objected to.)

Q. April 1939—your husband was with you, was he not ?—A. Definitely.

Q. And you had been to a party ?—A. No, we had not.

40 Q. Did you see her on one occasion just about then, when you had been to a party ?—A. No.

Q. Had your husband had too much cherry brandy to drink ?—A. No ; we were packing furniture that day because we were moving to Gunnedah.

Q. Did your husband ever go there ?—A. Not unless I was with him.

Q. So that it would be quite untrue to suggest that in your presence you—that you saw her one night after a party at her home when your husband had too much cherry brandy ?—A. Definitely untrue.

50 Q. That is definitely imagination ?—That is untrue ?—A. That is a vivid imagination, absolutely.

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No. 8.

J. M.
Nancarrow.

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December

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tion,

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*In the
Supreme
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No. 8.
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examina-
tion,
continued.

Q. Let me pass to the next thing. You went again in July 1939, did you not?—A. Yes.

Q. Is this correct, that at that time her neck was not swollen?—A. No, it is not correct. It still was swollen.

Q. Was it still stiff?—A. Yes.

Q. Worse than before?—A. It was.

Q. And you noticed it?—A. Yes.

Q. No improvement in the neck at all?—A. No.

Q. Were her turning movements more difficult then?—A. No, I think they were about the same. Her throat—her head was still stiff, 10 her neck. She had to move the upper part of her body to move around.

Q. What time did you see her then?—A. In the afternoon.

Q. Is this what you said on the previous occasion—you did not notice anything about her face at that time?—A. No; I did not.

Q. You did not swear that?—A. No.

Q. So if that is down here that is quite wrong?—A. I could have because her throat was still swollen.

Q. But I am putting to you that on your oath on the last occasion you said this: "I did not notice anything about her face at that time." In chief to your own Counsel you said that?—A. I don't remember saying it. 20

Q. It was true if you said it, wasn't it?—A. Of course it was.

Q. And is it the truth that you did not notice anything about her face at that time?—A. No, it is not, because her face was still swollen, her throat.

Q. And badly?—A. Yes.

Q. Did you ever see it when it was swollen so that her head, neck and shoulders were kind of all one piece?—A. No, never that bad.

Q. Never that bad?—A. No.

Q. You may take this question—all the questions I have been asking you, I suggest were put to you by your own Counsel. I now pass to a 30 question put to you in cross-examination. Is this statement what you said, first of all on page 84, line 51—"On that occasion you mentioned, before you went away to Gunnedah—that was April 1939—was Mrs. Hocking's appearance substantially the same as when you saw her with Sister Sly, as far as you remember"?—A. Yes, it was.

Q. And you said "Yes, definitely"?—A. It was too.

Q. You knew, of course, that Sister Sly was in the house looking after her for some four or five weeks?—A. Yes.

Re-examined :

Re-examin-
ation.

Mr. SHAND : Do you remember my friend putting to you that you 40 had said before that there was a slight swelling in the neck?—A. Yes.

Q. He put that to you?—A. Yes.

His HONOR : No—a slight swelling underneath (indicating jaw).

Mr. SHAND : Yes.

Q. And also is this what you said—"And her face was very puffed"?—A. That is right.

Q. My friend asked you a question about having seen her when her neck and shoulders all seemed to be in one piece, and you said that that was not correct. Is it true that you never saw her in October 1939?—A. I don't think so. 50

Q. You said you saw her for a while in July 1939 when you were down for a trip?—A. Yes.

Q. In fact, during that time you said you were situated at Gunnedah then?—A. Yes. (Objected to.)

(Witness retired.)

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*Plaintiff's
Evidence.*

No. 9.

EVIDENCE of Richard William Nancarrow.

Sworn, examined, deposed.

No. 9.

R. W.
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tion.

To Mr. SHAND : I am the husband of Mrs. Nancarrow, who has just
10 given evidence. I used to live at Quirindi and I knew both Mrs. and
Mr. Hocking. I knew them very well. I remember definitely Mrs. Hocking
having gone to Sydney to the hospital and coming back again and going
into Quirindi Hospital. After she came out of Quirindi Hospital my wife
and I visited her. We visited her on two or three occasions.

Q. I want to deal with 1938 now when she came out of hospital.
Do you remember a nurse being there when you visited her?—A. Yes,
a nurse was there at the time—a sister. When I saw Mrs. Hocking she
looked very, very ill at the time. She came out of the bedroom in a
dressing-gown, a Japanese looking thing—an old dressing-gown—and she
20 came to the fire. It was the middle of winter and there was a fire burning,
and she sat on a chair and she was wrapped round with a rug, and I could
not see much of her neck because she had a flannel round her neck. Her
face seemed a bit swollen, especially about her chin. Her voice was
slightly husky, if anything. She looked very ill. Before she had this
operation she was always a fine looking woman, but this time she was
definitely a very sick woman. Later on in 1939 we went to Gunnedah—
we moved there, to live there. Before we went there, I visited the house
to say good-bye to Mrs. Hocking—the wife and I and the two children.
30 She was in the bedroom when we came to the house. Mr. Hocking let us
in the door and we went inside to the lounge room, and after a little while
Mrs. Hocking came out of the bedroom. She was dressed practically the
same as before, with a dressing-gown.

Q. And what about her face and what you could see of her neck?—
A. It was pretty well the same as before, with a flannel around it and
still slightly swollen.

Q. You were still living at Gunnedah. You went away and you
came back?—A. Yes, and I paid a third visit, I went in to see how she
was getting on, to see how she was progressing in her illness. She was
still ill.

40 (Mr. Shand stated that there was certain evidence which he
required this Witness to give, which may be evidence in reply, in
reference to Dr. O'Hanlon. He further stated that as he did not
want to bring the Witness back again, perhaps Mr. Cassidy would
agree to the evidence referred to being given at this stage.
Mr. Cassidy stated that he had no objection to that course being
followed as he did not think the Witness should be brought back
again.)

Mr. SHAND : Do you remember in 1938 having a conversation with
Dr. O'Hanlon?—A. I had many conversations with Dr. O'Hanlon.

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tion,
continued.

Q. In connection with this matter?—A. —

(At this stage Mr. Cassidy suggested that perhaps His Honor might point out to the jury the position in regard to this particular evidence.)

His HONOR: The jury will register it in their minds but forget all about it until they have heard a great volume of other evidence. Gentlemen, you will probably be reminded about it later on in the addresses.

Mr. SHAND: Now I just want to confine it to the one instance. You said you had a number of conversations in connection with Mrs. Hocking? —A. Yes. 10

Q. I want to confine it to this one occasion—I don't want to lead the Witness.

Mr. CASSIDY: You may lead him on this.

Mr. SHAND: About whether he could do any more. Do you remember him saying something about that?—A. I was working in Rowntree's store——

Q. This was in 1938?—A. Yes.

Q. Can you say what time it was?—A. Some time in 1938, I cannot say what month it was.

His HONOR: Spring, summer, autumn or winter?—A. It would 20 be some time in the autumn.

Mr. SHAND: Just confine it to this one thing. Did he say something about whether he could do any more. Did he say this, that he felt that he could not do any more for Mrs. Hocking now?—A. Words to that effect, yes.

Cross-examined:

*Cross-
examina-
tion.*

Mr. CASSIDY: You have read over the evidence that you gave last time, have you not?—A. No, I remember it.

His HONOR: That is not an answer to the question?—A. No, I 30 have not read over it.

Mr. CASSIDY: Well, it has been gone through with you, hasn't it?—A. Yes, to a certain extent.

Q. Who with?—A. The wife and myself, and I had a yarn with Mr. Shand about it.

Q. And who else?—A. Well, there was no one else really. There was Mr. and Mrs. Hocking—I have seen them.

Q. Did you talk to Mrs. and Mr. Hocking about your evidence?—A. I just went over it to refresh my memory.

Q. You just went over it to refresh your memory, did you?—A. Yes. 40 with the wife.

Q. And with Mrs. Hocking?—A. She was present.

Q. Didn't she help you?—A. No, I don't think so. Not in any way I can think of.

Q. Your evidence has shifted a little since last time, hasn't it?—A. No, not as far as I know; no, it has not.

Q. Do you know that your evidence was taken down last time?—A. It is generally taken down in courts of law, isn't it?

Q. You were asked no questions at all last time, were you, by the cross-examining Counsel?—A. Not a one.

Q. And what you said last time was this. After you went to Gunnedah and you came back—that was in July 1939—you went to the house to see them. Is that so?—A. Yes, that is correct.

Q. And then you said you really could not see what her appearance was like as you did not take much notice? That is what you swore last time, isn't it?—A. I could not say.

10 His HONOR: Do you recollect saying that last time?—A. No, I do not.

Mr. CASSIDY: Do you say you did not say that last time?—A. I don't say I didn't say it, but I cannot recollect every word of the evidence I gave last time.

Q. But it is quite different to what you said to-day, isn't it?—A. Yes, it may be to a certain extent, but when you think back you can see how things are, and little things are brought to your mind.

Q. Who brought little things to your mind?—A. Well, the wife and I have been thinking it over.

Q. And Mrs. Hocking?—A. No.

20 Q. But you have seen her and talked to her in the last few days?—A. I have seen Mrs. Hocking in the last few days, but the case has not been brought up with Mrs. Hocking, not the slightest way whatsoever. Well, just the customary facts of the case and how things are getting on and things like that.

Q. Did you take any notice of her appearance at that time, in July 1939?—A. Well, I must have taken notice of her appearance.

30 Q. Well, from what you said last time there could not have been anything very abnormal about her, could there?—A. Well, there may have been. There was very little cross-examination last time, and no questions were asked at all, we never gave it a distinct thought.

Q. But you had two Counsel, didn't you discuss it with Counsel last time too before you went into the box?—A. Very, very little.

His HONOR: This is on page 85.

Mr. CASSIDY: Let me get the next bit: "I did not take much notice." I put it to you that in July 1939, that lady's neck was not swollen?—A. I am not talking about her neck; I am talking about her face. Just about here (indicating) it was noticeably swollen. Not about her neck; I never saw her neck.

40 Q. Where are you talking about now?—A. Just a slight swelling about here. (Indicating.)

His HONOR: What sort of a swelling, did you say?—A. Well, I would not say bloated, because "bloated" applies to inebriates. She was bloated.

Mr. CASSIDY: What kind of swelling did you say?—A. Puffy.

Q. The words you used were: "A slight swelling," weren't they?—A. Well, in an ordinary man's language a swelling is a puffing. I don't know the difference. There was puffing round here. (Indicating.)

Q. When?—A. In 1939.

50 Q. Had you talked with your wife about a slight swelling in 1938?—A. I cannot say.

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No. 9.

R. W.

Nancarrow,

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*In the
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R. W.
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tion,
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Q. Now I want to come back to the first occasion—that is 1938 ?—
A. We went there in 1938 in the middle of winter 1938, and she did have a slight swelling, certainly. There were three different times that we went there.

Q. But did you notice that there in July 1939 ?—A. She had the bandage round her neck—Certainly I did.

Q. But this swelling was up here (indicating). You told us that didn't you ?—A. Yes.

Q. Was that there in 1939 ?—A. Yes.

Q. Why did you say the last time, then, "I really could not say what her appearance was like, as I did not take notice," and you gave no evidence of any swelling at all. (Objected to.)

Q. In July 1939, on the last occasion, you gave no evidence of any swelling whatsoever, did you ?—A. I was not asked about any swelling.

Q. Is that your serious answer ?—A. Certainly it is.

Q. Now in April 1939 you saw her, did you not ?—A. Yes.

Q. And did you swear on the last occasion that you did not notice anything about her walking—not particularly—then ?—A. I could not really say whether I did or not.

Q. This is on line 22 : "She came out of the bedroom soon after we got there. I did not notice anything about her walking—not particularly." Did you say that ?—A. I must have said it. I could not say now whether I did or not.

Q. Would that be right—that you did not notice anything about her walking ?—A. I did not notice anything about her walking, no. She came out of her bedroom, but I did not notice anything about her walking when she came out. You don't notice everything like that when you are visiting. I don't know how she came out. She may have come out shakily ; I could not say.

Q. But you did not notice anything, did you ?—A. I noticed certain things, and I noticed a bandage round her throat and how she was dressed.

Q. But you did not notice anything about her walking ?—A. No.

His HONOR : Do you mean by that you saw nothing abnormal about her walking ?—A. No, I saw nothing abnormal about her walking, no, when she was sick she might have come out in a very slow manner. She would not come out in a lively sort of manner. She came out very slowly, but she did not come out with a limp or falling over, or anything like that.

Q. I want to come back to this incident when Sister Sly was there—1938. Do you say now that you noticed that she had a puffy face then ?—A. Yes, certainly I did.

Q. You can remember that, can you ?—A. Yes.

Q. Is that what you said last time ?—A. I cannot remember any of the evidence I gave last time. I am just telling the truth now as far as I know, and last time too.

Q. Is this the truth that you said last time—"I did not notice anything about her face, not that particular time." "Not that particular time," mentioning the time. Is that what you swore ?—A. I could not say.

Q. Well, would it be true if you did swear it ?—A. No, it would not be true. It would be true to a certain extent, yes.

Q. True to what extent ?—A. Well, when Mrs. Hocking came out she had a bandage round her face, right round the neck here (indicating) she had it.

Q. She did not have her face bandaged?—A. No, she had this bandage round her throat here (indicating) and she was husky and she had like a slight puffiness in her face, but nothing abnormal. I could not say she was abnormal. At the present time, or before that she had a thin kind of face. There was nothing abnormal about her, only her face seemed kind of puffy.

Q. "I did not notice anything about her face, not that particular time." Would that be absolutely wrong, if you swore it last time?—A. It would be not wrong or right.

10 Q. "But she was a bit swollen round the chin here" (indicating)?
—A. Well, that is what I just said.

Q. You knew this lady very well; Quirindi is not a large place, is it?—A. No, certainly not.

Q. And your families knew each other very well—the Nancarrow family and the Hocking family knew each other very well?—A. What do you mean by well?

Q. Well, you were very friendly?—A. Who told you that?

Q. You were friendly, weren't you?—A. We were friendly but there are certain acquaintances and friends and very close friends. They were
20 friends.

Q. They are in the second class are they?—A. Yes. There are three or four different types.

Q. You work in the same business as Mr. Hocking?—A. Yes, certainly.

Q. And that means that at the end of 1937 and early 1938 before her operation you saw her, didn't you?—A. Yes, I did.

Q. And the fact is that at that time that she was in a thin and most nervous state, was she not?—A. She was not.

Q. Say January 1938? Was she like she is now, or about 9 stone in
30 weight? January 1938?—A. Well, I cannot remember any particular dates—

His HONOR: Before she went down to be operated on.

Mr. CASSIDY: Was she just as she is now?—A. She was always a good looking woman. She was fatter than she is now—

Q. In January 1938, before she went down to get operated on, she was a woman about the same build as she is now?—A. Yes.

Q. And her appearance was just the same as it is now?—A. Yes, practically the same, but a little bit stouter.

Q. I put it to you that this lady was in a very serious state of illness
40 with a goitre before her operation, and she was down to about 7 stone?
—A. That is ridiculous.

Q. Ridiculous?—A. Absolutely.

Q. Absolutely ridiculous?—A. Yes.

Re-examined:

Mr. SHAND: Do you remember when you were there on the occasion before you left for Gunnedah, passing a remark about Mrs. Hocking? (Objected to; pressed; objection withdrawn.)

Q. Do you remember passing a remark?—A. Yes, I know of it. I remember it.

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No. 9.

R. W.
Nancarrow,
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tion,
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ation.

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tion,
continued.

Q. What was it?—A. Well, when she came out of the bedroom, and I went into the lounge room and sat on the settee there—Mrs. Hocking came out of the bedroom and she looked so awful and so rotten that I said “Gosh, you look beautiful to-night.” Just the opposite to what she was.

Mr. CASSIDY: Did you say that in front of your wife?—A. Yes, certainly, as a kind of a joke.

Q. Did your wife object?—A. No, certainly not, I might call you that some time.

Q. And your wife heard it?—A. She was there at the time. 10

Q. And heard it?—A. I could not say. She was there at the time. She might have heard and took no notice of it.

Q. Have you discussed with your wife whether that remark was made?—A. Whether that remark was made?

Q. Yes. Have you talked with your wife about whether that remark was made?—A. Yes, I have spoken to her about it.

Q. And she knows all about it?—A. Certainly she does.

Mr. SHAND: You were just about leaving for Gunnedah, weren't you?—A. Yes, I was leaving that night.

Q. And you had had a drink or so?—A. Yes, certainly. 20

Mr. CASSIDY: It was not after a party then?—A. No, there was no party. I was packing furniture all day—

Q. What time of the day was it?—A. About dusk—a little after dusk.

Q. Did you have cherry brandy?—A. I did not have cherry brandy.

Q. You didn't have cherry brandy?—A. No, I have never drunk cherry brandy in my life.

(Witness retired.)

No. 10.

EVIDENCE of Edmund Hocking.

Sworn, examined, deposed.

30

No. 10.
E. Hocking,
2nd
December,
1943,
Examina-
tion.

To Mr. SHAND: I am the husband of the Plaintiff, and my wife and I live at Quirindi. I work in the store of Rowntree and Company. I remember that my wife came down to Sydney in 1938 to see Dr. Ritchie and eventually Dr. Bell, and she went to St. Luke's. I was with Mrs. Hocking. I remember that there was an operation on the 15th March.

After the operation I went to see my wife daily and sometimes two or more times daily.

I noticed something about her neck after the operation. I noticed shortly after the operation what I thought to be a drain tube. It looked like a dark object—dark grey, I should say in colour, probably about a quarter or half an inch long. I noticed it slightly to the right of the middle line of the neck, I should say. 40

Q. Was there any suppuration when you saw it?—A. Well, when Mrs. Hocking was brought in she was lying slightly on the right side with some pillows placed under her head. As time went on I saw suppuration very much later. I was visiting her regularly.

Q. Before you went, did you speak to Dr. Bell about some symptoms that she had?—A. Yes, I spoke to him about the cramps, the pins and needles—the cramps. I asked him what was the cause of it, and he said “It is slight tetany,” and he prescribed some calcium tablets and said to continue taking these tablets and it would take quite a while to clear up. Before leaving to go home I had a further conversation with him, and I asked him further questions about this tetany, and he still said it would take a long while to clear up. First of all, I think I asked him was there
10 one chance in a hundred.” I asked him was there anything we could do to assist, and he said “Well, no,” but to continue to take the calcium lactate, and I said “Anything else,” and he said “Well, perhaps an X-ray later on to see how the cardiac is responding”—the heart cardiac.

Q. Did he say what was the cause of the tetany?—A. He stated that some of the stitches or knots had been dissolved and they were the cause of the tetany. When my wife left St. Luke's she was still weak and there was still some inflammation of the throat, which was bandaged. There was still a little hole in the centre of the throat that had to be dressed and she still had the tetany. By tetany I mean the pins and
20 needles, the cramps. She still had that. The wound was discharging when she left.

Q. We know she went into Quirindi Hospital. Before that—from the time she came back until she went into Quirindi, was her condition the same or getting worse?—A. No; it was getting worse, I should consider. These pins and needle cramps were becoming more severe.

Q. After she came back—some time after, did Dr. O'Hanlon visit the home?—A. Yes. First of all, I had a conversation with Dr. O'Hanlon at the store, and he came to my home. I remember writing a letter to Dr. Bell.

30 Q. In which you said “The throat has not yet healed; she has taken out seven knots since coming home. It is not discharging so freely. The whole body has been much swollen until to-day. It seems slightly less swollen to-night. The tetany is still very annoying. The attacks do not last quite so long”?—A. Yes. That was the 2nd May. Dr. O'Hanlon called in. I was not present on the first occasion that he called.

Q. You said that these symptoms of the muscles had got more severe. What did you notice? Describe to these gentlemen what was happening at this stage?—A. Yes, I noticed that the thumbs were coming over the palms like that (indicating). The fingers were drawn and the arms were
40 fixed and later as the spasms developed the fingers became more curled in towards the palms of the hands, like that (indicating) and the feet were drawn round.

Q. What about the neck. Was there any swelling there still?—A. Yes, it was still swollen.

Q. I think then that your wife went into Quirindi Hospital?—A. Yes.

Q. When she went into the hospital, was that after she had these spasms that you have described?—A. Yes, she had spasms before she went into the hospital.

50 Q. Dr. O'Hanlon had been in attendance?—A. Yes. She was in hospital from the 4th May till the 9th June. I visited her then; I visited her every day.

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tion,
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Q. Did you see anything happening while you were there—any of these spasms?—A. Yes, I saw spasms. One particular bad spasm was on the 1st June. It was about 8 o'clock in the evening that I called; she was then unconscious. The hands and arms were as I have described. The knees were drawn up in the bed, and there was a sister in attendance, and the sister was rubbing the arms with talcum powder—she had talcum powder on her hands—and her face.

Q. Did you see Dr. O'Hanlon giving her any treatment?—A. I saw Dr. O'Hanlon giving treatment in the home. He was giving injections.

Q. You didn't see him in the hospital?—A. No. He spoke to me. 10

Q. You have said the neck was swollen?—A. Yes.

Q. Did you notice anything that was done with regard to the neck—in the hospital treatment?—A. There were hot fomentations applied. I remember on one occasion something happening in regard to the wife's wound on the neck. It started to bleed on one occasion. She said something to me. My daughter was with me. I was just leaving the hospital. As I was leaving, my wife turned her head to say good-bye to my daughter and then the bleeding started. There wasn't any nurse present at that time. Mrs. Hocking rang for a nurse. I waited for a little while and Mrs. Hocking said that the nurse would still be there, and it was time to leave the hospital then, so I left. No one came up till the time that I left. After she left the hospital she came home, and Sister Sly was there. 20

Q. How was her condition generally then?—A. Her condition was up and down; sometimes very bad. I saw the doctor do something.

Mr. SHAND: What did you see him do?—A. I saw the doctor injecting something into the arm.

Q. Do you remember on an occasion coming home and seeing a different kind of treatment by the doctor?—A. Yes, I saw paroidin injections. 30

Q. That is under the skin?—A. Yes.

Q. And Dr. O'Hanlon said something to you?—A. Yes.

Q. Were you given any instructions how to administer paroidin?—A. Yes, after that.

Q. That would be when Sister Sly was there?—A. Sister Sly would give it while she was there, but before she left I was shown.

Q. Did you continue to give paroidin to your wife?—A. Yes.

Q. Can you remember until when Dr. O'Hanlon came more or less regularly to the home?—A. He came more or less regularly until October 1938. 40

Q. Do you remember your wife going into hospital again?—A. I do.

Q. That was in September 1938. What happened at that time?—A. They tried to give her the same treatment again.

Q. After she came out?—A. No, they tried to give intravenous injections in the hospital.

Q. And what happened?—A. The veins were gone.

Q. Did you see her just before she went to hospital?—A. I went with her to the hospital, with the doctor.

Q. What was her condition then?—A. She was unconscious.

Q. She came out in some few days?—A. About four days. 50

Q. And came back to the home?—A. Yes.

Q. What was her condition then ?—A. She was still having spasms, there was still swelling of the throat, and paroidin was being given, and sometimes calcium.

Q. When she went to the Quirindi Hospital on the second occasion how did she go ?—A. She went in Dr. O'Hanlon's car.

Q. How did she get to the car ?—A. Dr. O'Hanlon and I carried her to the car and I was in the back seat of the car and nursed her—held her in my arms.

Q. You say Dr. O'Hanlon came periodically up to October ?—A. Yes.

10 Q. After October, did you continue to give your wife any treatment ?
—A. Yes, I was still giving her paroidin and calcium.

Q. That is under the skin ?—A. Yes.

His HONOR : Was calcium given under the skin ?—A. No, it was a tablet or a powder, more usually in tablet form and some in powder, and there was another thing given, tablets containing parathyroid extract.

Mr. SHAND : She got cod liver oil too ?—A. Yes.

Q. From October onwards, what was the appearance of her neck ?—
A. The neck was still swollen ; sometimes it was more swollen than others.

Q. And what about these spasms ?—A. The spasms were periodic
20 spasms. She may go a few days without spasms, other times daily, and I have known her to go two or three weeks without a spasm.

Q. In February 1939, do you remember Dr. O'Hanlon calling ?—
A. Yes.

Q. Was anything wrong with your wife then ?—A. She had a spasm then.

Q. And what treatment was given then ?—A. The paroidin injections.

Q. And anything else ?—A. The paroidin and calcium was given.

Q. In 1939, was your wife moving about freely, or what was her
30 condition ?—A. No, she was mostly in bed, sometimes from the bed to the lounge room.

Q. Was she fully dressed ?—A. No, she was dressed in my dressing gown.

Q. You remember Dr. O'Hanlon calling again in September 1939 ?
—A. Yes.

Q. Just before we deal with that, what was her condition from the time he called in February 1939 until September 1939 ?—A. She was still having spasms.

Q. And what about the face ?—A. The face was swollen.

Q. When he called in September, were you at home then ?—A. My
40 daughter telephoned me and I came home.

Q. Your daughter had come back from school ?—A. My daughter was home from school ; it was the Spring holidays.

Q. And you went home ?—A. Yes.

Q. And were you there when Dr. O'Hanlon arrived ?—A. I think I was there about the time he arrived, or shortly after.

Q. Where was your wife ?—A. She was in bed.

Q. What was the condition of her face and neck ?—A. There was still some swelling there.

Q. Do you know how she got to bed ?—A. I was told how she got
50 to bed.

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Q. You did not witness it? She was in bed when you got home?—
A. Yes.

Q. I want to ask you this: from September until this incident about the tube in October, how did your wife's condition progress?—A. As I said before, sometimes she was slightly better, but still had the spasms.

Q. And just before the incident that I am referring to, the tube incident?—A. I thought her condition was much worse for some weeks before that incident.

Q. Worse in which way?—A. The spasms were more severe and more frequent and of longer duration. 10

Q. And how was the swelling?—A. There was still some swelling.

Q. Before I deal with the matter I want to ask you, apart from the paroidin and the calcium tablets were you also getting other things for her?—A. I was getting, as I said, the tablets containing parathyroid extract.

Q. Where did you get those?—A. From a representative of the Australian Drug Co.

Q. Was that through your association with Rowntrees?—A. Yes, through my association with Rowntrees I was able to obtain them.

Q. Was there anything else?—A. There were tablets of various 20 forms, mostly containing calcium.

Q. Did you also get a great number of different things from the chemist?—A. Quite a number.

Q. Some for pain?—A. Yes. I think the doctor gave prescriptions during the time he was attending and I may have got repeats of those prescriptions.

Q. You say that for some weeks before the beginning of October your wife got worse, in your opinion?—A. Yes.

Q. By the way, how was her diet around about this time?—A. It was of a very light nature, mostly in the line of Bovril or milk foods or beef 30 tea, she could not take hard substances. Her throat was so sore.

Q. By the way, was there a Mrs. Fisher in the house at various times?—A. At various times, she assisted in the house and looked after Mrs. Hocking generally.

Q. The 1st October was a Sunday and you were home?—A. Yes. I would be home all day Sunday.

Q. What was her condition on the 1st October?—A. The spasms were very, very severe. She was from one spasm to another.

Q. Did you call in the doctor?—A. No, I did not call the doctor on that occasion. He had previously stated that he could not do anything 40 to help, that we were doing all that was possible.

Q. On the Monday what was your wife's condition compared to the Sunday?—A. I think it was even worse.

Q. And you were still working?—A. I was still employed, but I was there for a very short period of the day. I was home practically the whole time.

Q. Did you have occasion to go to your employment early that morning?—A. Yes. I went down early to attend to some matters and returned shortly afterwards.

Q. But you were home most of the day?—A. Yes, most of the day. 50

Q. Do you remember something happening after lunch?—A. Yes, about 3 o'clock she had a most desperate spasm, one of the worst she had

ever had. She was almost black in the face and appeared to be almost choking.

Q. Had she been bad in the morning as well?—A. Yes.

Q. With spasms?—A. Yes.

Q. You say that she was almost black in the face with this spasm in the afternoon?—A. Yes.

10 Q. Then what did you observe?—A. The breathing seemed to be very difficult and the contractions of the muscles drawn up very much and the knees were drawn up more than in any other spasm, and I used to try and sit her up in the bed. I did not know what to do to help with the breathing, and I had a tumbler of water and a spoon beside the bed and I forced a little of that between her teeth.

Q. How were her teeth?—A. They were locked, clenched.

Q. Did you see anything happen?—A. I could not see inside the mouth, but by the action of the throat it looked as if something had come up into the throat. It was just at the time I forced the water in.

Q. Had you been able to leave her when this was going on?—A. No, I had not been able to leave her at that period.

20 Q. Had you seen spasms as bad as this?—A. Not as bad. I had seen some bad spasms, but none as bad as this. She was so ill she could not call for assistance.

Q. Did you fear for her life?—A. Yes, on many occasions.

Q. That evening what was her general condition?—A. She was still very weak, but there were no more spasms.

Q. By the way, before this occasion of the 2nd October, had you seen anything from the mouth?—A. Mrs. Hocking continually complained of pus in the mouth and was gargling her mouth with Solyptol, I think.

Q. Had you noticed anything about her breath?—A. Her breath was very offensive.

30 Q. On the next day, that would be Tuesday the 3rd, what was your wife's condition then?—A. There were no more spasms, she was still in a weak condition and complaining of some hard substance in the stomach and chest.

Q. And following that complaint did you give her anything?—A. First of all I think I gave her Kruschen salts and later on paraffin oil and on the Thursday morning early I gave her castor oil.

Q. On the Thursday morning in the early part of the morning had you left the house?—A. Yes, I went probably down to the butcher's.

Q. And did you come back again?—A. I came back about 8 o'clock.

40 Q. And did your wife tell you something?—A. Yes.

Q. And later on did she show you a sketch?—A. She did.

Q. Was the sketch finished off to the extent of Exhibit C now is when she showed it to you?—A. No, it was just a few lines to give me a rough idea.

Q. Was it later on finished off in the state it is in there?—A. Yes.

Q. Did Dr. O'Hanlon come following that Thursday?—A. He came on the following day, Friday.

Q. And did you have quite a lengthy conversation with him?
—A. I did.

50 Q. Which, if you are asked, can you give?—A. I can.

Q. By the way, when you saw this did you know what it was?
—A. I had not the faintest idea.

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Q. During the conversation was this sketch, Exhibit C, handed to Dr. O'Hanlon?—A. It was, by me.

Q. When Dr. O'Hanlon came on the 6th how had your wife's condition progressed?—A. She was much stronger and her general condition, I thought, was better, and there were no further spasms. Her face was still swollen.

Q. How was her mouth?—A. She could not open it wide, normally.

Q. Did she open it wide enough for you to see into it?—A. Not a thorough examination.

Q. By the way, did Dr. O'Hanlon examine the internal part of her 10
throat?—A. He tried to, but it was with unsatisfactory results.

Q. He spoke to you about it?—A. Yes, he said he had no torch or appliance to examine it, and he made other suggestions.

Q. On Saturday the 7th what happened?—A. She was taken to Quirindi Hospital for X-ray.

Q. How was she taken?—A. In Dr. O'Hanlon's car.

Q. How did she get to the car?—A. The doctor and I assisted her to the car.

Q. When she was at the hospital being X-rayed how was she situated?—A. She was held in position for the X-ray by the Sister and myself, 20
the Sister on one side and I on the other.

Q. How did she get from the doctor's car to the hospital?—A. She was wheeled in a wheel chair.

Q. Was there any examination of the inside of her throat at the hospital?—A. No.

Q. And were you present all the time?—A. I was present the whole of the time.

Q. She came home after that?—A. Yes.

Q. Did you give her anything?—A. She was given paroidin but not 30
so frequently.

Q. By the way, at this time on the 7th could your wife open her mouth properly then?—A. No, I would still say that she could not open her mouth properly.

Q. Your wife wrote to Dr. Bell and received a reply suggesting that she go down to St. Luke's?—A. Yes, I know that.

Q. And she set off for St. Luke's, is that so?—A. Yes.

Q. How did she go?—A. She was carried to the car and taken by car to the railway. I carried her from the car at the railway to the cabin on the north-west mail where I had two berths booked.

Q. How did she get from the Sydney Station to St. Luke's?—A. There 40
was an ambulance waiting at Central and she was conveyed in the ambulance to St. Luke's.

Q. Did you send for the ambulance?—A. No.

Q. Going back a little, after she was X-rayed, did you give your wife's throat any treatment?—A. She was gargling her throat still and hot fomentations. Up to coming back to St. Luke's it was frequently fomented.

Mr. CASSIDY: Coming back from St. Luke's?—A. No, from the 2nd October until she went to St. Luke's the second time.

Mr. SHAND: Had you spoken to Dr. Cooper about arranging for an ambulance?—A. Yes. 50

Q. Dr. O'Hanlon had been away?—A. Yes, his daughter was very ill.

Q. When your wife came down to St. Luke's did you attend the hospital?—A. Yes, I was there daily.

Q. Did you see Dr. Bell?—A. Yes.

Q. And Dr. Ritchie?—A. Yes.

Q. We will just leave Dr. Ritchie out for the moment. Did you have a conversation with Dr. Bell in connection with your wife?—A. Yes.

Q. Tell these gentlemen what you said and what he said?—A. There was some mention of the foreign body and Dr. Bell said: "The foreign body would not cause tetany." I said: "What is tetany, doctor?"

10 He said: "Well, tetany is the cutting off of the supply of blood to the parathyroid gland." I said: "How would that happen?" and he said: "A surgeon in an operation of this nature could quite easily cut off the vessel, but a few doses of calcium usually restores it." I said: "What do you think caused the tetany in this case?" He said: "The inflammation." I said: "What do you think caused the inflammation?" He said: "I don't know." I said: "Well, I do."

Q. When you said "I do," did he say anything further?—A. No, I think he walked away.

20 Q. Did he mention whether this kind of thing happened, this tetany, happened in operations?—A. He said that it frequently happened in operations of this nature, slight tetany.

Q. Do you remember when your wife was in hospital did the Defendant mention Dr. Marsh's name to you?—A. Yes, he suggested that we get Dr. Marsh to see Mrs. Hocking.

His HONOR: Who suggested that?—A. Dr. Bell.

Mr. SHAND: My friend wants to know can you place that exactly after your wife went to hospital?—A. That would probably be three days after.

30 Q. Do you remember your wife leaving St. Luke's on that occasion?
—A. Yes.

Q. Where did you go after she left St. Luke's?—A. We went to Manly.

Q. To recuperate, was it?—A. Yes, we stayed about a month.

Q. Did she have any prescription with her?—A. Yes, she had a prescription given to her by Dr. Marsh for throat treatment, also one from Dr. Bell.

Q. Is that the prescription from Dr. Marsh (handed to Witness)?—
A. Yes, that is the prescription given.

40 (Prescription from Dr. Marsh dated 31/10/39 tendered and marked Exhibit M.)

Q. Did you also visit Dr. Ritchie with your wife?—A. I did.

Q. And you had a conversation with Dr. Ritchie?—A. Yes.

Q. And you recollect what it was and you can give it if asked?
A. Yes.

Q. And did you get that prescription "Calcium glutinate."
(Exhibit B)?—A. Yes.

Q. Did he make any examination of your wife?—A. No.

50 Q. After you had gone to Manly did you see anything at the back of your wife's throat?—A. Yes, I saw a small scar with three bits of tissue across it, whitish-looking substance.

Q. And have you had a look at it lately?—A. Yes.

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Q. Can you still see something?—A. Yes, definitely.
Q. As much as it was before?—A. Nothing like the first occasion.
Q. After you had been to Manly you went back to Quirindi, did you?—A. After being the month we saw Dr. Bell and Dr. Ritchie and returned to Quirindi.

Q. Did you return to Quirindi and did you see Dr. O'Hanlon?—A. Yes.

Q. And did he give you certain advice?—A. Yes.

Q. And following that advice did you go down to Sydney and see Dr. Bell?—A. Yes.

Q. When was that?—A. In March 1940.

Q. Was your wife there?—A. Yes.

Q. Did you have a conversation with him?—A. Yes.

Q. Tell these gentlemen what the conversation was?—A. Dr. Bell said: "Did you come down to see the show?"—No, Dr. Bell said:

"What did you come down for?" and Mrs. Hocking said: "We came

down to see the show," and he said: "Is that all?" and she said: "Well,

doctor, I came down to see what you are going to do about the tube,"

and he said: "I did not leave any tube," and she said: "Yes, you did

doctor, I remember the occasion in the hospital when you were removing

the tube. I felt a stinging pain and you said 'Damn' and I said 'Oh',"

and he said: "Now, if you are going to talk like that you had better go

and see your solicitor," and there was further conversation, and I remember

the doctor opening the back of the neck of the frock and examining the

outside of the throat, and I said: "What caused the scar on the inside

of the throat?" and he said: "That could have been a large knot," and

he said something about: "No doctor would believe the story of the

tube," and she said: "Yes, another doctor would." He said: "Have

you seen Dr. Ritchie," and she said "No," and he said: "You had better

run along and see Ritchie," and we went and saw Dr. Ritchie.

Q. And you had a conversation with Dr. Ritchie?—A. Yes.

Q. Which you remember very well?—A. Yes.

Q. And which you can give if required?—A. Yes.

Cross-examined.

Mr. CASSIDY: Did you go down with your wife to see Dr. Flynn?—
A. Yes.

Q. How long did you stay there? How long was she under his
treatment?—A. I think about three weeks, ten days to three weeks.

Q. Did she have a spell at Terrigal?—A. No.

Q. Have you heard about that before?—A. No, I know nothing
about that before.

Q. Has your wife said anything to you about me mentioning it to
her?—A. No.

Q. Was that quite new to you when I suggested Terrigal?—A. Yes.

Q. And you had not heard of it before?—A. No.

Q. And you were not ready for that question?—A. No.

Q. And it was quite a surprise for you?—A. It was a surprise to
know that I had been at Terrigal.

Q. And your wife has never been at Terrigal?—A. She has been
through Terrigal.

Q. Was that on the occasion before you saw Dr. Flynn?—A. No, I
don't think so.

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Cross-
examina-
tion.

Q. Was it after you saw Dr. Flynn?—A. Let me think. That would have been before I saw Dr. Flynn, as far as I can recollect.

Q. Did you take a letter to Dr. Flynn from Dr. O'Hanlon about your wife's condition?—A. I don't remember the letter.

Q. Will you swear you did not?—A. I won't swear I did not, I may have. I don't remember the letter.

Q. Had Dr. O'Hanlon told you at that time that your wife was neurotic?—A. No, definitely not.

10 Q. Did you not know that that was in the letter that Dr. Flynn received from him?—A. No, I do not. It has never been suggested.

Q. Have you never heard a suggestion, in 1937, before this operation, that your wife was neurotic?—A. No.

Q. Was she?—A. No.

Q. She was quite an ordinary normal woman?—A. An ordinary normal woman.

Q. Showing no signs of nerves?—A. Well, sometimes a person becomes run down, but I would not call it neurotic.

Q. Run down, when was she run down?—A. It may have been at various times, slightly run down.

20 Q. Before 1937?—A. 1937—she had not been well.

Q. Before that had she been run down on several occasions?—A. No.

Q. Not been to a doctor before?—A. I don't remember her ever being to a doctor before then.

Q. Do you know Dr. Howell?—A. I do.

Q. Had she been to him?—A. No, definitely no.

Q. So in 1937 she came back from Dr. Flynn and she was no better?—A. The doctor was very alarmed about her condition.

Q. Which doctor?—A. Dr. O'Hanlon.

30 Q. And her weight was very much reduced?—A. I don't remember how her weight was.

Q. You were concerned about her condition, she was down to under 7 stone at one time?—A. I don't know what her weight was. I was concerned about her condition.

Q. You knew she was very, very thin?—A. Yes, she was thin.

Q. She is not a short woman, is she?—A. Average height.

Q. And did you not know that her weight was down to under 7 stone?—A. I don't know what her weight was.

40 Q. After returning from Sydney she got no better and Dr. O'Hanlon was alarmed about her condition?—A. Yes.

Q. And you were alarmed too, were you not?—A. Naturally.

Q. As a matter of fact Dr. Ritchie, when you saw him, said your wife was—(objected to).

Q. Your wife was present when you saw Dr. Ritchie, was she not?—A. Yes.

Mr. SHAND : I still object to it.

Mr. CASSIDY : You had knowledge of your wife's condition didn't you, when you saw Dr. Ritchie in February 1938?—A. I knew she was ill.

50 Q. And you knew she was very, very dangerously ill, didn't you?—A. No, I would not say dangerously ill.

Q. Wasn't her weight then still down at the 7-stone mark?—A. I don't know what the weight was I have said before.

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Q. Do you remember seeing Dr. Ritchie and Dr. Ritchie telling her that treatment was absolutely essential?—A. He said treatment was necessary.

His HONOR: Did Dr. Ritchie tell your wife that that treatment was absolutely essential to her?—A. Yes.

Mr. CASSIDY: Did he say that she was in a very, very dangerous state?—A. No.

Q. But you knew what she had then?—A. I was not sure.

Q. Hadn't Dr. O'Hanlon told you before you left what her condition was?—A. He recommended me to go to Dr. Ritchie for advice. 10

Q. You remember taking a letter to Dr. Ritchie about her?—A. I don't know whether we took a letter or not.

Q. And that he said that she was what was called thyrotoxic?—A. I don't remember that word being used.

Q. Do you remember him saying that she had goitre?—A. I remember she had some trouble with her thyroid.

His HONOR: Listen to the question, that she had goitre?—A. I don't remember that word being used.

Mr. CASSIDY: Didn't you ascertain before you left to see Dr. Ritchie what was wrong with her?—A. I don't think Dr. O'Hanlon explained the 20 case fully to us.

Q. You were very friendly with him then, were you not?—A. Yes.

Q. You knew him well enough to talk to him confidentially, did you not?—A. Yes.

Q. And I suppose you would see him from day to day?—A. I saw him frequently.

Q. He would be in the shop, I suppose, often?—A. Quite often.

Q. Do you tell me still that you did not know in November 1937 that your wife had goitre?—A. I did not know that she definitely had goitre. 30

Q. That she had at that time?—A. I was not sure.

Q. Her condition was very weak, was it not? Physically weak?—A. She was weak, but not so very weak.

Q. Her neck was much thinner than it is now, for example?—A. I don't know that it was thinner.

Q. And you could see the goitre, could you not?—A. No.

Q. Never noticed anything wrong with her neck?—A. No.

Q. You knew, of course, that she was referred by Dr. Ritchie to a surgeon, Dr. Bell?—A. Yes.

Q. She had been sick for some time in 1937, had she not?—A. She 40 had been sick from about August 1937, I think.

Q. She had been in the hospital under treatment at Quirindi from October to November, do you remember that?—A. Yes, I remember that.

Q. And put there for a time on light food?—A. No, I know she was there. I don't know what food she had.

Q. You know that from August 1937 there is a record of various mixtures and other things purchased by your wife up to January 1938?—A. Yes.

Q. A lot more, for example, than there were from October 1938 to October 1939?—A. They are not all there. 50

Q. October 1938 to October 1939, that is all there is. You have been asked about this before, haven't you?—A. No, I was asked about some prescriptions. I don't know what they were. They were not referred to me in the previous case.

Q. They were from your dispensing chemist, Mr. Davey?—A. Yes.

Q. And they commence in August 1937?—A. I admitted that just now.

Q. And they are regular from August up through September, October, November, December, January and they take about three pages?—A. Yes.

10 Q. From October 1938 to 2nd October 1939 you have admitted that Dr. O'Hanlon saw your wife only twice, have you not? You even gave the dates to Mr. Shand, the 1st February 1939 and 19th September 1939?—A. Yes.

Q. You will admit that during that period from October 1938 to October 1939 there are only those matters that you see there?—A. No, I will not admit to that.

Q. You will admit on these documents?—A. On those documents, but I will not admit that that is the whole of the treatment.

Q. On those documents you will admit that it goes—(Objected to).

20 Q. I showed you three pages from August 1937 up till January or February?—A. Yes.

Q. Then I pass over the period from April 1938 when she came home to Quirindi to October 1938, the last time when Dr. O'Hanlon visited her for a year, those records are there too, are they not?—A. I admit the records are there, but can I make an explanation?

His HONOR: What explanation do you want to make?—A. Those are only the prescriptions that I booked, there are many that I paid cash for. I paid cash for more than I booked. That is my explanation.

30 Mr. CASSIDY: Did that apply to the whole time?—A. No, I think it applied for the latter part of the period.

Q. When is the latter part of the period?—A. After the operation and so on.

His HONOR: What period was it you commenced to pay cash to the chemist?—A. After the operation I paid cash.

Mr. CASSIDY: So up to the operation you paid cash?—A. No, not the whole of the time. They were booked.

Q. After the operation, then, I may take it that you paid cash?—A. Not always. I paid sometimes cash and sometimes had them booked.

Luncheon adjournment.

40 Mr. CASSIDY: The letter shows that you had a discussion with Mr. Davies as to what had been bought?—A. Yes.

Q. Attached are all the prescriptions made up. Every time he made up a prescription he made out one of these so that he gives the dates of the prescriptions?—A. Yes.

Q. Attached to these documents, at the back, are all the prescriptions from August 1937 until 8th October 1939? Do you follow?—A. Yes.

Q. They commence on the 28th August 1937. They run through consecutively. I show you to the end of 1937?—A. Yes.

50 Q. You were getting prescriptions regularly through that period, you see. Now we start 1938. We have February 1938. Your wife goes to

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Sydney on the 12th?—A. Yes, no, not the 12th. She went to Sydney on the 19th February.

Q. There is a gap. They start again. They go up to the 29th September 1938. They were fairly regular up to then?—A. Yes.

Q. Take up to 10th October 1938. From that date there is one 7th January 1939 and one 1st February 1939?—A. Yes, I can see.

Q. 16th February, 2nd March, and none until the 20th September 1939? I put it to you in 1939 your wife's neck had got better and her only complaint was spasms at times?—A. She was still suffering from tetany, of course. 10

Q. The neck got better?—A. The wound had healed.

Q. I put it to you again that from October 1938 up to October 1939, during that period her throat got better, was better?—A. No.

Q. Still bad?—A. Still swollen.

Q. Could she move her head?—A. She moved her body around like that. She moved to the left side.

Q. So it was very bad?—A. At times, sometimes worse than others.

Q. But always bad?—A. Yes, at periods very bad, and sometimes it slightly eased the swelling decreased.

Q. Could she move it during that period?—A. So far as I recollect, 20 she moved that way, particularly to the left. (Indicating.) She would move her body around.

Q. Of course, for the week here, October 1939, there is no prescription from the chemist?—A. Not for Mrs. Hocking.

Q. On the 5th October 1939 you had a prescription made up for yourself?—A. Yes.

Q. And got nothing for her?—A. No.

Q. You told me this morning you did not know your wife had goitre or toxic poison?—A. I do not know that I knew it was goitre; I knew there was some trouble in the throat. 30

Q. Had not you been told of the toxic poison? Thyrotoxicosis was mentioned this morning. Do you now say you did not know that she did not have toxic poisoning?—A. I did not know it was toxic poisoning.

Q. You say you hadn't been told so by Dr. O'Hanlon?—A. I do not think he ever told me just what was the matter.

Q. Is that your sworn evidence, that he did not tell you?—A. I do not remember him telling me.

Q. I want to pass to your statement that that throat of hers continued on and she could not move. You swore that to me a few minutes ago?—A. Yes. 40

Q. Did you swear this at page 81 of the first trial:

“Q. You say you don't recollect your wife having anything wrong with her about a fortnight before this incident in October?—

A. She still had this tetany.”

Q. That is the only thing she had, is it not?—A. I said tetany. I did not say a swelling.

Q. Do you mean to say her throat was so bad she could not move?—

A. I said not the whole of the time, if I remember rightly.

Q. (Quotation re-read): You did not mention any swelling?—A. No, it is not saying she did not have it. 50

Q. Do you mean that she had it?—A. As I say, it was swollen some times worse than other times.

Q. The next question was :

“ Q. Apart from that, was there anything else wrong with her ?—A. I don't remember any other illness or anything wrong with her, perhaps other than she may have had a cold or something of that nature.”

That was your sworn evidence on the first occasion ?—A. I think that is right.

Q. It was true ?—A. I did not qualify it.

10 Q. And that statement of yours was meant to be true ?—A. It is true. She still had the tetany.

Q. And it is still true that all she may have had was a cold or something, apart from the tetany ?—A. The swelling.

Q. You did not mention swelling ?—A. No, it is not there.

Q. I will go on :

“ Q. Had she been complaining of anything at all say for two or three months before this incident in October ?—A. The only complaints were regarding tetany.”

20 You gave that evidence ?—A. Yes, I always regarded tetany as associated with swelling. I always regarded that inflammation was associated. It was the parathyroids which were affected.

Q. It goes on :

“ Q. Was there anything you could see for yourself about her apart from what she said, was there any observable sign of anything being wrong with her prior to this incident in October ?—A. The woman was quite normal except for these attacks occurring.”

That was what you answered ?—A. If it is there that is what I must have said.

Q. And it was true at the time ?—A. Perhaps I did not understand the question fully.

30 Q. His Honor said to you “ These spasms,” and you said “ Yes.” Do you remember the next question :

“ Q. Apart from that, her condition was all right ?—A. Yes, she was able to get about between spasms.”

That was the answer you gave ?—A. Yes, I take it it was, if it is there.

Q. “ Was she doing the household work,” and you answered “ Part of the work.” It was true, was it ?—A. There were times when she would do a little or attempt to do a little.

40 Q. I want to read from part of Exhibit D, letter 17th January 1939, Dr. O'Hanlon to Dr. Bell. That letter speaks of an extraordinary heat wave at Quirindi, January 1939 ?—A. I remember it.

Q. Then the letter goes on : “ The first time since returning from Sydney she attended a picture show last week.” Do you remember your wife attending a picture show in 1939 ?—A. No.

Q. You swear she was not at the pictures ?—A. I have no recollection of her being there.

Q. You were on friendly terms with Dr. O'Hanlon in 1939 ?—A. Always on friendly terms.

Q. And still ?—A. We still speak to one another.

50 Q. I put it to you that your wife was attending the pictures in 1939 ?—A. No, I have no recollection of it.

Q. Will you deny she did ?—A. I cannot recollect her being there. I do not think it would have been possible for her to have been there in the condition she was in.

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Q. "She certainly looks very well . . . in her trouble." At that time did she look well?—A. I do not remember her appearance.

Q. In February 1939 you took your daughter to a boarding school. You came down?—A. Yes.

Q. On the occasion of Dr. O'Hanlon's visit then you asked him to keep an eye on your wife in case of spasms occurring?—A. Yes.

Q. It was not for any attention to her neck or spasm that he was called in?—A. He was called in connection with a spasm, so far as I recollect.

Q. Was there a spasm, February 1st 1939, when you called him in?— 10
A. It was later on in the month, I think.

Q. When you went with the daughter your wife stayed on her own?
—A. No, her sister was with her, Miss Maher.

Q. It was in February 1939?—A. Yes.

Q. I was putting to you this morning that in 1937 your wife was a very sick woman. I put it to you you knew she was a very sick woman?—
A. I knew she was sick.

Q. And you knew she had toxic poisoning?—A. No.

Q. Do you remember this question, page 158, second trial :

"Q. And at one time one of the things that she had was a form 20
of swelling on the back of the neck and back of the shoulders
which became very distressing,"
and do you remember your answer—"I would not say a swelling, but
there was a slight rash there"?—A. Yes, I recollect that.

Q. "It was very distressing to your wife," and you said "Yes"?—
A. I do not know. I do not remember.

Q. It was very distressing to your wife, was it not?—A. It was certainly annoying.

Q. She came afterwards to consult a specialist?—A. Yes.

Q. "And Dr. O'Hanlon recommended various lotions and gave 30
various prescriptions to try and cure the condition, but they were not of
much effect," and your answer was "Yes"?—A. Yes.

Q. "And the rash or irritation continued," and you answered "That
is so"?—A. Yes.

Q. Dr. O'Hanlon recommended that your wife go to a specialist in
Sydney?—A. Yes.

Q. He advised you to take her for a holiday before going to the skin
specialist?—A. He may have advised.

His HONOR: Do you recollect whether he did or not on this
occasion?—A. No, I do not recollect this one. 40

Mr. CASSIDY: He also told you that you should go and see someone
like Dr. Flynn, and he gave you a letter of introduction to Dr. Flynn?—
A. We went to see Dr. Flynn.

Q. But what you said last time was he gave you a letter of introduction
to Dr. Flynn?—A. Well, that is so.

Q. (Page 159, second trial, referred to):

"Q. Did he say that the trouble was inside and not superficial?
—A. He told me that he thought that her nerves were—I do not
understand these things like a medical man."

Do you remember giving that evidence?—A. I do not remember that 50
question.

Q. This is the one after: "At all events, Dr. O'Hanlon or someone told you that that condition was attributable to your wife's nerves," and your answer was "Something to do with the nerves." Is that right?—A. Yes.

Q. "I suppose you remember that you were told then that your wife's nerves were in a pretty bad state." Your answer was "Yes." Is that right?—A. That is right.

Q. And you knew her nerves were in a very bad state?—A. Yes.

10 I call neurotic. Q. And you knew she was neurotic at that time?—A. No, not what

Q. "Did he tell you that he suspected, though he was not sure, that she was suffering from thyrotoxic poisoning," and you answered "Yes." Is that right?—A. I do not remember that one.

Q. Will you deny that you said that on the second occasion?—A. I do not deny it, but I have no recollection at this moment.

Q. Is it true?—A. I do not remember the words. What did you describe it as? Was it thyro-tox—?

Q. What is it, though? What is the word you are trying to think of?—A. Toxic poisoning, whatever it might be.

20 Q. Will you admit you swore that on the second trial?—A. If it is there I must have. I do not recollect it at this moment.

Q. "She was suffering from a heart at the time," and you answered "Her heart was rapid." Do you remember that?—A. Yes, I remember the heart being rapid.

Q. "Your wife had at the time what is popularly known as goitre." You answered "No observable signs and I am quite sure there was no swelling or anything like that." Did you swear that?—A. No, there was no observable sign.

30 His HONOR: But did you swear that on the second occasion?—A. Yes, if it is there.

Mr. CASSIDY: When did you first hear she had goitre? (Objected to.)

Q. Did you ever hear she had goitre before the operation?—A. Yes.

His HONOR: When did you first hear it?—A. I think after seeing Dr. Bell and Dr. Ritchie before the operation.

Mr. CASSIDY: It was the first time?—A. As far as I remember it as being defined to any particular trouble.

Q. You know that goitre in women is associated with serious nervous disturbances? (Objected to.)

40 Q. You know that goitre is associated with serious nervous disturbances in women? (Objected to; admitted)—A. I do not know that it is. I do not think I am qualified to say. I have perhaps heard different things, but I do not know it from the medical standpoint.

Q. Do you remember telling me that you did not know that your wife was losing weight?—A. I said I did not know what her weight was.

Q. Did you know she was losing weight?—A. I cannot definitely say I did know. At what time did you mean?

Q. August 1937 to February 1938?—A. Yes, she had lost weight. I think she had.

50 Q. You swore on the second trial that between August 1937 and February 1938 she had lost weight?—A. Yes.

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Q. That she was not sleeping very well ?—A. Yes.

Q. That she was nervy ?—A. Yes.

Q. That she had tremors in her body or hands ?—A. I do not recollect that.

Q. But that is so, is it not ?—A. She had slight tremors in her hands.

Q. But you did not use the word "slight" before ?—A. I do not know what word I used.

Q. Will you admit this is what you said :—

"Q. Did you notice that she had tremors in her body or hands ?

—A. Yes."

10

—A. Yes.

Q. "And she had a very clammy skin" ?—A. I am trying to think what you mean.

Q. That she had a clammy skin ?—A. I do not remember the second condition. If it is there, I said it.

His HONOR : The answer at page 160 is : "I don't know."

Mr. CASSIDY : "After she came out of Quirindi Hospital instead of getting better she got worse." You answered "Yes." Is that right ? It was in November 1937 ?—A. Yes.

Q. "Dr. O'Hanlon then told you that she was in his opinion suffering from poisoning of the thyroid." Your answer was : "He told me that it was thyroid trouble." You gave that evidence ?—A. Yes.

Q. And that is true what he told you ?—A. Something about thyroid trouble.

Q. And then he advised your wife to go to Sydney and to have an operation ?—A. I do not know about the operation. He advised going to Sydney.

Q. "He also told you at the time that you might very well have to face your wife undergoing an operation ?" Is that right ?—A. He advised me to take her to a specialist. He said an operation may be necessary.

Q. For what ?—A. I suppose for the thyroid trouble.

Q. And did not you know it ?—A. You called it some special name, toxic poisoning.

His HONOR : Thyrotoxicosis, is that what he called it ?—A. Yes.

Mr. CASSIDY : Take what happened at the operation and your account of it. You realise the truth is important in this matter ?—A. Definitely.

Q. You realise a serious charge is being made against the doctor ?—A. Yes.

Q. You realise it is said that your wife is saying deliberately he did nothing to that wound, knowing he left a tube in it ? (Objected to.)

Q. Deliberately recommended no treatment to get that tube out even though he knew she went away and it remained there. Is that right ?—A. I would not know what a doctor would do in an operation of this kind ; it is all foreign to me.

Q. You know from discussions with your wife that she says the doctor knew he had broken the tube ?—A. The only thing I knew is if a doctor put a tube in and broke it, well, he ought to know.

40

Q. If he had left the tube in, that never at any time during the whole period that she was ill did he do anything to try and get it out. That is what you suggest?—A. Not to my knowledge. He did not try to get it out.

Q. So knowing your wife was ill he did nothing towards relieving her from trouble? (Objected to.)

Q. Do you seriously say that calcium lactate could do anything towards getting a tube out?

Mr. SHAND: That is not the question.

10 (Preceding question rejected as being too general.)

Mr. CASSIDY: What I mean is he did nothing towards getting that tube out?—A. No.

Q. And all his treatment was directed towards the spasms?—A. Towards tetany.

Q. And the treatment was injection into the blood or administration of calcium lactate or some other thing?—A. Yes.

Q. You say to-day you saw a tube while your wife was in hospital?—A. Yes.

Q. Did you see your wife lying on her right side?—A. Yes.

20 Q. Was she lying on her right side?—A. Not right on the side, but to the right.

Q. I put it to you that she was lying naturally in bed like that. (Indicating)?—A. No, it would be quite wrong.

Q. You could not possibly say that she was lying naturally in bed?—A. What is naturally? She was not lying flat on the back.

Q. Always lying on the side. You have never said before that she was lying on her right side?—A. Well, she was.

Q. But you have never said it before?—A. I do not think I was asked about it, the way she was lying on the side.

30 Q. When were you first asked about it?—A. I remember distinctly that she was.

His HONOR: When do you recollect being first asked about it, lying on her right side?—A. I do not recollect being asked any time.

Mr. CASSIDY: Did not Mr. Shand ask it of you?—A. No.

Q. Have you and your wife discussed she was lying on her right side?—A. No, I know she was lying that way.

Q. Have you never mentioned it before this case started?—A. I have no recollection of it.

40 Q. If I told you your wife never mentioned it before. (Objected to: objection withdrawn.)

Q. Would it be mere coincidence and not the result of discussion if your wife also says for the first time. (Objected to.)

Q. Well, as the result of discussion, do you know your wife said she was lying on the right side?—A. No, I do not know.

Q. Has she ever said that to you?—A. Not to my recollection.

Q. Has she told you during these proceedings that I cross-examined her to suggest that she swore for the first time in this trial that she was lying on her right side?—A. Definitely never mentioned it to me.

50 Q. You have talked of what has happened here, I suppose?—A. Yes, but not the whole of the proceedings, all the questions.

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Q. But about anything new?—A. No.

Q. So it is entirely independent of any discussion that you say for the first time that your wife was lying on her right side?—A. That is how it occurs to me and that is how it was.

Q. Have you discussed it with Dr. Thompson, her lying on the right side?—A. No.

Mr. CASSIDY : Was it suggested to you that if she was lying on the right side that might push it in?—A. No.

Q. That has never been suggested?—A. No.

His HONOR : Push the tube in, you mean ?

10

Mr. CASSIDY : Yes, the tube.

Q. I put it to you that you swore before that she was lying back naturally. This is page 73. That was the question. His Honor put this question : "Do you say that the open end of this tube was protruding outside the dressing?" and your answer was : "It was just underneath; you could just see the end underneath the dressing." Is that what you said?—A. Yes, something to that effect.

Q. Then His Honor said : "The dressing did not completely cover it?" and you said : "No, it did not. If I am allowed to make an explanation, the patient was lying back naturally." (Objected to.)

20

Q. Is that what you said? (Objected to.)

Q. Is that what you said?—A. If it is there, that is what I said.

Q. And you said it to His Honor?—A. Yes.

Q. Now, if she was lying on her right side, how did you see it?—A. Because I was just sitting back from the bed. Her head was up that way (indicating), and I was sitting down on the chair.

Q. But if she was lying on her right side—A. She was not lying right on her right side. I said "slightly to the right." I did not say "Lying on the right side." I did not mean to convey that. The head was inclined to the right.

30

Q. Which side of the bed were you sitting on?—A. I was sitting on this side (indicating). The wife's head was there, and I was there (indicating). I was sitting down on a low chair there.

Q. I want to ask you again—"The patient was lying back naturally." Wasn't this the position—(objected to).

(At the suggestion of Mr. Cassidy His Honor agreed that this was not the stage at which to argue a certain point in the evidence, but that it be left till the re-examination.)

Q. First of all, there was a pillow behind the head?—A. Yes, a pillow behind her head.

40

Q. Dressing round her throat?—A. Yes.

Q. Sticking plaster across the chest?—A. Yes, but not always fastened.

Q. What does that mean?—A. One end was loose.

Q. Do you remember anything about sandbags at the side?—A. I don't know about sandbags.

Q. Well, small pillow things?—A. Well, I call them pillows.

Q. At the shoulders to hold the head firm—at the side of the shoulders to hold the head firm?—A. I don't recollect that part of it.

Q. But that was correct, was it not?—A. Yes; there were pillows. 50

Q. Small sandbags on each side to hold the head firm ?—A. I don't know what they were.

His HONOR : Were there pillows there ?—A. Yes.

Mr. CASSIDY : You saw this tube protruding through something ?—A. Through the flesh.

Q. Protruding through the flesh—is that right ?—A. Yes ; I saw it coming out of the flesh. Yes, that would be right.

Q. And you could see the flesh ?—A. I could see the flesh in the lower portion, yes.

10 Q. Could you see the flesh at the wound where the tube was protruding ?—A. I don't know whether I actually saw the flesh. I saw the end of the tube—a dark object.

Q. What did it come through ?—A. It would naturally come out of the flesh, wouldn't it ?

Q. A dark object ?—A. Yes, a dark object—a dark grey.

Q. On the first trial you did not so describe it ?—A. I was not asked.

Q. Do you remember that you were not asked ?—A. I don't remember being asked the colour.

20 Q. You do know then, at the first trial, that you did not say what colour it was ?—A. I don't think I did. I was reminded about it at the next trial.

Q. At the first trial the colour being used was sworn by Dr. Bell and the nurses always to be red ? (Objected to.)—A. I don't know.

Q. The nurses were not at the first trial—I am wrong. Dr. Bell swore it was red. He always used a red tube ?—A. I think he did.

Q. And you did not go back into the box in reply and say that the tube was black ?—A. No.

Q. And the first time that you said the tube was black was when the second trial came on ?—A. As far as I recollect, yes.

30 Q. I ask you now was that tube black ?—A. Yes, black or dark grey as I described it previously.

Q. When ?—A. Dark grey, I think. I said a darkish colour, a dark grey the colour of rubber—grey rubber.

Q. That is not the only respect in which you have changed your evidence in the second trial, is it ?—A. I don't know. (Objected to.)

His HONOR : Added to his evidence.

Q. I think you told the jury that you gave no evidence as to the colour of this at the first trial ?—A. No, I did not.

Mr. CASSIDY : You were at the trial the whole time ?—A. Yes.

40 Q. And neither you nor your wife went back into the box to say that the tube was black ?—A. I was not asked. (Objected to.)

Q. You did not go back to corroborate your wife that the tube was black, did you ?—A. No, I did not go back.

Q. At the first trial, at page 71, you gave evidence that your wife said to you someone was putting something into her food of a poisonous nature, did you not ?—A. I don't remember that being put to me.

Q. You don't remember it ?—A. Not in those words.

50 Q. But you admit at the first trial that your wife said to you that somebody was putting something in her food of a poisonous nature ?—A. I don't remember the poisonous nature portion of it. I remember something being said about something being put in the food.

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Q. Have you discussed that with your wife within the last couple of days?—A. Not particularly, no.

Q. Haven't you had a talk about that—about what you were going to say?—A. No.

Q. "Are you swearing on your oath that she had never suggested, for example, that you had tampered with her food?" Your answer was: "Dr. O'Hanlon was called." Then the next question was: "You answer the question. I put it to you that you have not—"

His HONOR: Hasn't your wife made some statements?

Mr. CASSIDY: Yes. 10

Q. I put it no higher than that—"Against you in connection with her food," and your answer was: "She thought somebody had done something to her food on one occasion." Do you remember swearing that?—

A. I remember that, yes.

Q. "Did she ever say what the person did," and did you say "she thought they had put something into her food."?—A. Yes, I think that is what I said. (Objected to; pressed.)

Q. "Did she ever say what the person did?" Your answer was: "She thought they had put something into her food."

His HONOR: You were then asked: "Of a poisonous nature?" 20
and did you answer "Yes"?—A. Yes.

Mr. CASSIDY: And did you say that you took that as applying to you?—A. I don't remember what I said.

Q. Would that be true if you said it?—A. I could be applying to me.

Q. You are suggesting it could apply to you? (Objected to; pressed.)

Q. Did you say it?—A. "It could apply to me," is that the question?

Q. Yes?—A. I don't know whether I said that on that occasion.

Q. Did you take it as applying to you?—A. It could apply to me. It could apply to anyone.

His HONOR: That is not the question. Did you take that as 30
applying to you when your wife made that remark?—A. Well, yes, I suppose I did.

Mr. CASSIDY: Of course that was imaginary?

His HONOR: What was imaginary?

Mr. CASSIDY: You never did anything like that, did you. You never did anything like that to her food?—A. No, I did not.

Q. Nor gave her any reason to suggest you would?—A. I never put anything in her food.

Q. You never gave her any reason to suggest that you would do that?—A. I cannot think that I did. 40

Q. You cannot think that you did—isn't the answer to that question "No"?—A. I never did anything to her food.

Q. Or that you never gave any occasion for her to think that you did anything to her food?

His HONOR: You did not conduct yourself at any time in such a way that she could draw the inference that you were putting poison in her food?—A. No, I don't think so.

Mr. CASSIDY : But don't you know you didn't ?—A. No, I didn't conduct myself that way at any time.

Q. " Did you take it that it was indicated you had done it," and you said " Apparently so." That was right, wasn't it ?—A. Yes.

Q. Do you remember Mr. Monahan asking you this : " Did she ever, to your knowledge, make statements to the effect that you struck her"—and your answer was : " Not to my knowledge " ?—A. Yes.

Q. That was a true answer to that question, was it ?—A. No.

Q. What ?—A. Read the question again please.

10 Q. " Did she ever, to your knowledge, make statements to the effect that you had struck her," and your answer was : " Not to my knowledge." Was that a true answer or a false answer ?—A. That was a false answer.

Q. And you swore it on oath knowing it was false ?—A. Can I make an explanation ?

His HONOR : Answer the question first ?—A. I swore it on oath.

Q. Knowing it was false ?—A. Yes.

Mr. CASSIDY : You swore it on oath knowing it was false ?—A. Yes.

Q. " You never heard of that ?" and you said " No," again. Is that right ?—A. I think I asked to be allowed to make an explanation.

20 Q. There is no record of that. The next question of that is : " You have never heard of that," and you said " No," didn't you ?—A. Yes, I said " No."

Q. " Of course, it would not be true "—

His HONOR : The next question is : " Are you sure."

Mr. CASSIDY : The question is this : " Are you sure " and you said " Yes " ?—A. Yes.

Q. So you were given every opportunity to deal with that question, were you not ?—A. I was given a number of opportunities there. I was given opportunities, yes.

30 Q. " Of course it would not be true, would it," and your answer was " What is not true." Then : " That you had struck her," and you said " No, I haven't struck her." Did you swear that ?—A. Yes.

Q. Was that true ?—A. No.

Q. Did you know it was false ?—A. Yes.

Q. " You never did strike her, and if she said that it was imagination or falsehood, one or the other " ?—A. I don't remember those words. If it is there—

Q. Well, it is there. " I don't remember ever striking her." Is that what you said ?—A. Yes.

40 Q. " Are you not able to say definitely whether you have struck your wife or not," and you answered " No." Is that right ?—A. No, that is wrong.

Q. Then : " You never did," and you answered " No." " If she said that sort of thing it was either imagination or falsehood, one or the other," and you answered : " I cannot imagine the woman saying that." That is what you answered, isn't it ?—A. Yes.

Q. Did you strike her ?—A. Yes.

Q. When had this striking taken place ?—A. I don't remember the date. I remember the occasion. I cannot remember the date.

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Q. Only one occasion?—A. Only one occasion, yes. I admitted to once.

Q. You admitted to once?—A. Since, yes.

Q. But when did you strike her? What year?—A. I don't know that I can say the year—probably 1941.

Q. Probably 1941?—A. There have been so many years mentioned in this case.

Q. This thing would not happen often?—A. No, I said once, but I am trying to recollect a definite time. I remember how it happened.

Q. How long before she saw Dr. O'Hanlon? 10

His HONOR: Was it before?—A. Yes, it was before she saw Dr. O'Hanlon.

Mr. CASSIDY: How long before she saw him?—A. I cannot recollect how long.

Q. Did you strike her because she was neurotic?—A. No.

Q. Have you discussed this matter of striking her, with your wife since she gave evidence in the Court here?—A. This time?

Q. Yes?—A. I don't think it has been mentioned since this trial started.

Q. Not last night?—A. No. 20

Q. Did you ask her what she was asked about it?—A. No, I don't ask her all those questions.

Q. Did she not tell you that she was asked a number of questions about charges she had made against you?—A. No, we did not discuss any charges made against me.

Q. The explanation you gave, you had the full opportunity of giving at the second trial, did you not?—A. No, I don't think I was given that opportunity. Didn't I ask to be allowed to make an explanation?

Q. You were cross-examined about this very matter at the second trial?—A. Yes. 30

Q. And you then admitted that you told a lie?—A. I think I asked to qualify it or something to that effect.

Q. And then you were given full opportunity by the Judge to explain it, were you not?—A. I don't think on the second trial—not to my recollection.

Q. Do you know what explanation you gave on the second trial?—A. I think I said I struck her.

Q. How? You went like that. (Indicating)?—A. Yes.

Q. Where?—A. On the face. Not a hard hit.

Q. Did you spank her?—A. I would not call it a spanking. Some 40 argument arose—

His HONOR: What was your answer to that?—A. Not a spanking. Will I explain.

Mr. CASSIDY: I want to get first of all, did you get a full opportunity to explain at the second trial?—A. I think I asked for that opportunity, but it was not given. I am not sure.

Q. Did you get a full opportunity to explain it on the third trial?—A. Yes, I did explain there. Why?

Q. And did you get a full opportunity?—A. Yes. I asked it of the Judge. 50

Q. And you had your full opportunity then?—A. Yes.

Q. What you said then was the true explanation, was it?—A. I said that I did not wish my domestic affairs to be brought into the case.

Q. And that was the true explanation, was it?—A. Yes.

Q. And that is the sole explanation you have?—A. Yes, that is the explanation. I don't think it is necessary to bring these things here.

Q. Is that the full explanation?—A. That is the full explanation.

10 Q. "Did she also make other allegations against you in regard to any other matters?" That followed on that matter of food of a poisonous nature? I was looking at the wrong page. It is page 72 and it starts at line 25. You say that these statements were made about Easter time 1941, do you not?—A. Yes.

Q. And then you were asked at line 40, "How do you account for her making these statements at Easter of this year," and you said "That is beyond me"?—A. Yes, that is what I said.

Q. You realise, do you not, that those statements are statements of a serious nature?—A. Yes, fairly serious.

Q. You know that your wife was in hospital in November 1937?—A. Yes.

20 Q. She made charges or complaints then against her treatment at Quirindi Hospital?—A. Not to my knowledge.

Q. Did she tell you they looked after her well?—A. I don't remember what she said about the attention or looking after that they gave her.

Q. Wasn't the position that she was making serious statements against the hospital?—A. Not to my knowledge.

Q. You know that Dr. Marsh saw her in October 1939?—A. I do.

Q. And you know that Dr. Marsh looked inside her throat?—A. Yes. Well, I did not see him, but I know that he was there. I know that he was called to do that.

30 His HONOR: You were not present?—A. No, I was not present when he was doing it.

Mr. CASSIDY: And you saw Dr. Marsh, did you not?—A. Yes.

Q. And spoke to him about her throat?—A. Yes.

Q. And he told you—(Objected to).

Q. Was your wife present?—A. Not when I spoke to Dr. Marsh. (Objection withdrawn.)

Q. And he told you that she had slight tonsilitis, did he not?—A. No. He told her the left tonsil was affected, but he said not to tell her the truth.

40 Q. I don't follow that?—A. I gather it was not to tell her what was really the trouble.

Q. But who gathered?—A. I gathered from the conversation.

Q. That he told you not to tell her what was the trouble?—A. His words were "I told her that the left tonsil was affected, but don't tell her the truth."

Q. Have you ever used those words in a Court before?—A. Yes.

Q. That he told you not to tell her the truth?—A. Yes.

Q. Do you suggest that Dr. Marsh said there was a hole or anything in her throat?—A. I do not suggest he said it was there.

50 Q. Were you suspicious of him?—A. I was worried about the throat. I asked him did he think the throat would be all right. I did not know whether it would be all right after an incident like that.

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Q. Were you suspicious of Dr. Marsh?—A. No, not suspicious of Dr. Marsh. What do you mean by suspicious?

Q. Did you think he was telling you something that was wrong?—

A. I thought he believed the story.

Q. But who told him the story?—A. I presumed that Dr. Bell had.

Q. Did he say anything about the story?—A. No.

Q. Nothing about the story?—A. No. I thought the remarks referred to it. I thought the remarks referred to what had happened—by not telling her the truth. I thought he meant to infer that he had found something. 10

Q. You got no other doctor to look at it then?—A. We placed it in the hands of Dr. Bell, Dr. Ritchie and Dr. Marsh, whom we were led to believe were eminent men.

Q. Dr. Ritchie saw her throat?—A. Not to my knowledge.

Q. Dr. Bell saw her throat?—A. He saw the outside in my presence; not the inside in my presence.

Q. Do you tell us that the doctor did not speak to you about the condition of her throat?—A. I don't remember him telling me exactly what he found. There was the discussion which I mentioned this morning.

Q. I suppose you were attending your wife in hospital while she was there in October 1939?—A. Yes, I was seeing her. 20

Q. I suppose you would go daily?—A. Yes.

Q. And did she tell you she was having very cruel treatment in St. Luke's?—A. I don't know that she mentioned very cruel treatment. She did say that she thought there was something in the water.

Q. Did she tell you at that time that Dr. Bell waited for five days and cleaned the throat out so that Dr. Marsh would not see anything?—A. She did not tell me that in the hospital.

Q. When did she tell you that? Did she ever tell you that?—

A. I think it was mentioned. I know that Dr. Marsh was not called immediately, which we expected he would be. 30

Q. Did she tell you that?—A. No, I don't think so.

Q. Has she ever told you that?—A. No, I don't remember her saying that—that he waited five days.

Q. That, of course, you would take as a most serious charge, would you not?—A. I don't know that I would take it as serious. The whole thing was serious.

Q. But you would not take that as a serious reflection upon a doctor's personal honour and integrity, would you?—A. Well, if it was put that way, yes, one would. 40

Q. So that if your wife thought that when she was in hospital—that she had had cruel treatment administered by Dr. Bell, and Dr. Bell waited for five days to get a throat doctor in when the pus had gone, you or she would then be suspicious, wouldn't you?—(Objected to).

Q. You would be suspicious?—A. I did not know what to make of the whole thing.

Q. But you would be suspicious, would you not?—A. Yes.

Q. And were you suspicious?—A. I was suspicious, yes.

Q. Of Dr. Bell?—A. Well, up to a point. The whole thing was so— 50

Q. But you were suspicious at that time when the incident occurred?—A. Of Dr. Bell. (Objected to.)

His HONOR : In October 1939.

Mr. CASSIDY : At that time, I am asking you were you suspicious of Dr. Bell ?—A. Suspicious in what way ?

Q. That he was deliberately trying to stop people from looking at your wife's throat ?—A. I don't think he would deliberately do it.

Q. He did not deliberately do it ?—A. It was not done. The throat specialist was not there, which I thought strange, that he was not called shortly after admission.

10 Q. Why didn't you say to the doctor " Call him " ?—A. We placed ourselves in the hands of Dr. Bell and Dr. Ritchie.

Q. But those men were both easily approachable men, were they not—Dr. Bell and Dr. Ritchie ?—A. We came back and placed Mrs. Hocking in their hands again, so that there could not be any serious suspicion.

Q. In your contact with this man (indicating Dr. Bell), you found this man a most simple, kindly man. (Objected to.)

Q. Isn't that how you found him, a most kindly and careful man ? (Objected to ; pressed and admitted.)

20 Q. Your wife said that the treatment was cruel treatment—she was given water with chloride in it ?—A. She told me something was put in the water.

His HONOR : Did she tell you what she suspected it was ?—A. Not at that time.

Mr. CASSIDY : She talked to you about the cruel treatment in the hospital did she not ?—A. She told me of something being put in the water, but I was not to know whether that was the usual treatment or procedure in hospitals for treatment of the throat. I did not know what to expect.

Q. But she was saying that Dr. Bell was keeping back Dr. Marsh ?—A. I don't think she suggested that to me in the hospital.

30 Q. When do you say you first heard that suggestion ?—A. I don't remember.

Q. I want to come to this again—you saw Dr. Bell on a number of occasions during her time in hospital in 1939—in 1938 ?—A. Yes, 1938, a number of times.

Q. And 1939 ?—A. Yes, I saw him in 1939. I don't know how many times ; not so many naturally, because she was only there a few days.

Q. And he was very approachable—a very approachable man ?—(Objected to ; admitted.)

Q. He is a very easily approachable man, isn't he ?—A. Yes.

40 Q. Nothing flash or anything like that ?—A. No, I would not suggest that of Dr. Bell.

Q. A very ordinary man, isn't he ? (Objected to.)

Q. Let me pass back to the time you were going into St. Luke's Hospital to see this tube. You noticed your wife's progress, did you not, during the time that you visited her ?—A. It was not always progress, I am afraid.

Q. Well, did you notice your wife's condition from time to time ?—A. Yes.

Q. Of course, she is now a woman of about 9 stone, is she not ?—A. I don't know what her weight is.

50 Q. After she came out of St. Luke's Hospital in 1939 you went to Manly ?—A. Yes.

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Q. And there she improved rapidly, did she not?—A. Yes, she improved rapidly.

Q. And you were in town on different occasions before you returned to the country?—A. We came in to see Dr. Bell and Dr. Ritchie on one occasion.

Q. And that was within a week of coming out of the hospital?—A. I don't think it was within a week.

Q. You may take it from me that your wife has put in the prescription the date of which is the 10th November 1939, and that is within seven days of coming out. That is right, isn't it?—A. I cannot agree that that is the date that we saw Dr. Ritchie. 10

His HONOR: You did not get the prescription on the day you saw him?—A. It was later in the month when we saw him. I remember clearly that was only two or three days prior to going back to Quirindi and we called in to see Dr. Bell and Dr. Ritchie, and we were at Manly for four weeks.

Mr. CASSIDY: That little bit you have talked over with your wife?—A. No, I didn't.

Q. Yesterday and to-day, I put it to you?—A. I didn't.

Q. So you have always thought that, have you?—A. Thought what? 20

Q. That it was just two or three days before you went back to the bush—back to Quirindi?—A. Yes; it was not many days before I went back to Quirindi.

Q. Because she was too ill to go in before?—A. No, not necessarily so. The doctors wanted to see her before she returned. I think I telephoned both doctors to make an appointment, and they said that they would like to see her before she went back.

Q. So that it was not the 10th November that you saw Dr. Ritchie?—A. No, I don't think it was the 10th.

His HONOR: You think it was more towards the end of November? 30
—A. Yes.

Mr. CASSIDY: You know that Dr. Ritchie has a secretary?—A. I take it that he has.

Q. You saw the secretary that day, didn't you?—A. I saw somebody there; I don't know who it was.

Q. And both of you went in by appointment?—A. Yes. (Objected to.)

Q. You went in by appointment, did you? (Objected to; pressed.)

Q. I will ask you, did you make an appointment to see Dr. Ritchie?
—A. Yes.

Q. You did?—A. No, let me see—I rang Dr. Bell—yes, I made both by appointment. 40

Q. Dr. Ritchie also you found an easy man to talk to?—A. Yes, I always found him easy to talk to.

Q. Quite easy to discuss your wife's case with?—A. I did not say he was quite free, we could discuss it with him, but not very freely.

Q. Was he holding something back?—A. He did not seem to want to discuss it very much.

Q. Wasn't he interested?—A. No, I don't think any of the doctors were interested after this incident.

Q. That is the impression you got of Dr. Bell too, that he was not interested?—A. Well, I would expect them to be more careful in their examination of the throat and so on after a suggestion like that.

Q. That is what I want to put to you, that Dr. Bell when you came down did look at your wife's condition and looked at it carefully, including her throat?—A. On our visit to the rooms or at the hospital?

Q. At the hospital?—A. I was not present when he examined her at the hospital, but I take it he would.

Q. And she told you he did?—A. She told me that he called.

10 His HONOR: The question is did your wife tell you that Dr. Bell had examined her throat when he called at the hospital?—A. No, I don't remember.

Mr. CASSIDY: You may take it that when you gave evidence to Mr. Shand this morning you said that you gave her three different kinds of aperients?—A. Yes.

Q. The last one you said you gave was castor oil on the morning of the 5th?—A. Yes.

Q. You make take it that Mr. Shand's next question was: "When you came back your wife told you something and you saw a sketch"?—A. Later I saw a sketch.

Q. How much later would that be, half an hour?—A. No, more than that, I would think.

Q. Three-quarters?—A. I find it hard to bind myself down to time. It was during that morning.

His HONOR: Before you had your breakfast or after?—A. After breakfast.

Q. Before lunch?—A. Yes, lunch was at 1 o'clock.

Mr. CASSIDY: You had had breakfast before this incident happened?—A. I think I had an early breakfast that morning. I don't
30 recollect the time, probably early; hours were not regular in those days.

Q. Do you remember the evidence you gave before of what happened from when you came in to the yard until your wife pulled the chain. Do you remember what you said before?—A. No, I don't remember.

Q. Did you observe that on that part of the case you have been asked no questions by Mr. Shand?—A. No, I did not notice it.

Q. Of course you did give evidence before?—A. I gave some evidence, but what was said I don't know.

Q. And the evidence you gave on the last occasion was that when you saw her she was hurrying back to the room?—A. Something like that.

40 Q. So that is correct. What you saw of her was her hurrying back to her room from the lavatory?—A. I would not see very much of her. It is only 4 feet from the lavatory to the bedroom wall.

Q. You did say you saw her hurrying back?—A. Something like that.

Q. Just a flash?—A. Yes.

Q. You were on the verandah then?—A. At the top of the steps, I think.

Q. And you could see her?—A. I saw a little of her.

Q. And she was not groping her way back, was she?—A. I think I explained there was only 4 feet between the corner of the lavatory and

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the bedroom and she was just going around the corner out of my sight, I think I said a flash. I meant by that just a glimpse of her, not a rapid movement as she went past the corner.

Q. Did she have anything in her hand?—A. I fancy she had the pan.

Q. You know, do you not, that she did not go to the bathroom to wash her fingers?—A. Because she had a basin alongside the bed, I think.

Q. What?—A. A washer alongside the bed, a piece of towelling.

Q. Did you say on the previous occasion that she had no place to wash in her bedroom?—A. She had no wash basin in the sense of a second wash basin. 10

Q. Did you admit on the last occasion that she did not wash her hands?—A. Not on the last occasion.

Q. Have you admitted that?—A. No, I don't remember.

Q. Don't you remember Mr. Monahan cross-examining you about that very matter?—A. I remember him saying something about it, but what was said I do not know.

Q. And will you agree that you admitted that she did not wash her hands?—A. I don't think I admitted that she did not wash her hands.

Q. What will you say now? Did she wash her hands?—A. I don't know. The washer was there. 20

Q. What washer?—A. What I have described.

Q. What was it?—A. A face rag, a piece of towelling.

Q. A piece of towelling?—A. I think it is better described as a face washer, a piece of square towelling probably bound around the edges. Sometimes they have various designs on them.

Q. Was it wet?—A. It was always damp. She used to use it for washing her hands after her food and that sort of thing.

Q. Do you remember it that morning?—A. I don't remember it, but it was there.

Q. You remember now that it was there?—A. Yes. 30

Q. Did you ever mention it before?—A. I don't think I was asked, only on the first occasion.

Q. Did you mention it on the first occasion?—A. I remember Mr. Monahan mentioning it, but I was not quite clear about it.

Q. Why not? It is not hard to understand washing your hands after you have had it in filthy excrescence, squeezing a tube. You understand that question? (Objected to; disallowed.)

Q. You understood clearly what Mr. Monahan was examining you about, didn't you?—A. That is a long time ago. I don't remember the whole of the incident. 40

Q. You understood it at the time, didn't you, what he was putting to you?—A. Sometimes it is hard to recollect these things in cross-examination, and when you go out of the Court and think over these things you recollect it.

Q. You did not come back and alter it?—A. I did not think that would matter. What has it got to do with the tube?

Q. You never saw the tube?—A. No.

Q. Did you tell Mr. Monahan that there were two sketches of the tube?—A. Yes, I corrected it afterwards.

Q. Was that another mistake? (Objected to.) 50

Q. The black tube, did you make a mistake about that, that you did not mention seeing the black tube on the day of the operation?—A. No, there was no mistake there. I was not asked about the colour.

Q. Do you suggest the answers you gave to Mr. Monahan were mistakes?—A. In what respect? Answers to which?

Q. To the questions with regard to your wife and the washing of her hands?—A. I naturally assumed that she washed her hands after that.

Q. Do you tell us now that you did not understand what Mr. Monahan was putting to you on this matter?—

Mr. SHAND: Which question?

His HONOR: The question of washing her hand after putting her fingers into the chamber pot.

10 Q. Do you remember being asked questions by Mr. Monahan about washing her hand or not?—A. Yes.

Q. Did you understand that question at the time?—A. Yes.

Mr. CASSIDY: Did you make a mistake in any of them?—A. I don't know. I don't know what I said.

Q. Did you ask to correct any answers that you had given?—A. No.

Q. Can we take the record now as being correct?—A. What is on the record would be naturally correct.

20 Q. "According to your recollection your wife gave an indication of having seen you?—A. She probably would have seen me." You remember that?—A. Yes.

Q. That is correct?—A. Yes.

Q. "On a previous occasion you gave evidence that your wife gave you an indication of seeing you on that morning as she passed from the w.c. to the bedroom?—A. That is correct." Is that right?—A. Yes. I said I saw her portion of the way.

Q. "As a matter of fact she was hurrying when you saw her?—A. Hurrying to get back to the room"?—A. Yes, I think that is what I said.

30 Q. There is no mistake about that?—A. She would naturally hurry to get to the wall for support.

Q. What?—A. In her weak condition—it is only 4 feet from here to here, and if you are in a weak condition you are naturally going to go quickly to get the support of the wall as I understand it.

Q. With a chamber in her hand do you say she was lurching forward—going forward to get support?—A. There was not much time to make any observation.

Q. What you did there, is that what you saw her doing?—A. I said I just saw her going past the corner.

40 Q. "The fact was that she was hurrying?—A. Yes, for it this way." That is right, isn't it?—A. Yes.

Q. And you were satisfied with that way of putting it?—A. Yes, apparently so.

Q. "There is no doubt in your mind what you saw of your wife was her hurrying from the lavatory back to the bedroom?—A. I said it was just a flash"?—A. Yes, I remember saying something about that.

His HONOR: "His Honor: What you saw was very brief and she appeared to be hurrying, is that correct?—A. Yes"?—A. Yes.

Mr. CASSIDY: Nothing about her going for support?—A. No.

50 Q. Now I want to pass to the first trial. "You say as you were coming up you saw her stepping across from the sanitary convenience

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back into the main house?—A. She was hurrying from the convenience to the room." Is that correct?—A. Yes, if it is there it is correct.

Q. "Did she have anything in her hand?—A. She had the pan in her hand?"—A. That is right.

Q. You might tell me at this stage did you stay at home for some little time then on that Thursday?—A. Yes, I think I would have been home quite a lot. I was most of the time.

Q. This was 8 o'clock in the morning?—A. Yes, I went down to the store.

Q. What time did you go?—A. About 9 o'clock. 10

Q. So you were home from 8 until 9?—A. As far as I recollect I would be.

Q. She did not tell you, did she, about losing it then?—A. I think if I recollect it was later, after I returned I probably went down and attended to some matters at the store and returned.

Q. In the hour you were at home she did not tell you anything about it having gone down the drain?—A. I don't think so.

Q. You went to the shop at about 9 o'clock?—A. I think it would be somewhere about that time.

Q. Was the sketch finished when you saw it?—A. No. 20

Q. Was your wife in bed that day?—A. Yes.

Q. Did she draw it lying down?—A. I don't know whether she drew it lying down or not.

Q. Was she up that day?—A. She was up that morning evidently to get out to the lavatory.

Q. Was her condition bad that day?—A. Yes, it was bad that day.

Q. Did she have a pen or pencil in her room?—A. Yes.

Q. When did you first see the first document? I will call it that so that there can be no objection. (Objected to.)

Q. When did you see the first sketch?—A. I think it was probably 30 about midday.

His HONOR: Before lunch?—A. Yes.

Mr. CASSIDY: Was that the only sketch you saw?—A. Will you allow me to qualify it—

Q. Was that the only sketch you saw?—A. Yes.

Q. Never saw one?—A. No, I have seen one since.

Q. So it was only one sketch you saw that day?—A. Yes.

Q. You did see another sketch the next day?—A. No, not next day. I saw the same sketch improved with more lines. The first time I saw it it was very rough. 40

Q. In what way was it very rough?—A. Just a few lines to indicate what it was.

Q. Just a few lines?—A. Yes, just a rough outline.

Q. Was it the outline that had rough lines?—A. Yes, it was not filled in like that sketch.

Q. Was the outline rough?—A. I don't know what the outlines were like.

Q. So all that had happened when you saw it the second time was that it had been filled in?—A. There was more detail.

Q. What kind of detail?—A. The two supposed wires coming out 50 of it and the sponge arrangement in it.

Q. Weren't the wires in it when you saw it the first time?—A. I don't know.

Q. Are those the outlines, leaving the filling in for the moment, were they the outlines you saw that day?—

His HONOR : Was it on the same piece of paper?—A. It was on the same piece of paper afterwards improved. At the first trial I said there were two drawings and I found out there was only one.

Mr. CASSIDY : You found out there were more?—

His HONOR : No, found out there was only one.

10 Mr. CASSIDY : Found out there was only one?—A. I asked to be allowed to make an explanation at the last trial that I had made a mistake.

Q. You swore at the first trial that there were not two different sketches?—A. I thought there were.

Q. Why did you change it?—A. Because I found out I was wrong. If you find out you are wrong aren't you allowed to change it?

Q. How did you find out?—A. I asked Mrs. Hocking and she told me there was only one sketch.

Q. When did she tell you that?—A. I think it was after the trial she told me I was wrong.

20 Q. And you corrected it?—A. I corrected it at the last trial.

Q. The trial on the first occasion lasted for some three or four days, did it not?—A. Yes.

Q. And you gave evidence early?—A. Yes.

Q. And there were a lot of people called after you?—A. Yes.

Q. And you did not correct it?—A. I did not understand the law.

His HONOR : Did your wife tell you it was wrong before your case finished before the jury?—A. Yes, she told me I had given wrong evidence.

Q. And you did not correct it?—A. I did not think it was important enough.

30 Q. That sketch was started then before lunch on the morning that your wife recovered it?—A. I think it would be somewhere before lunch that it was started. It is so long to remember so far back, and there were so many things happening at the time.

Q. You did not get the doctor that morning?—A. No.

Q. Nor did you ask for him?—A. We suggested getting the doctor and Mrs. Hocking said : " No, wait for a while."

Q. Was your wife up when you came home for lunch?—A. No.

Q. Was she too ill to get up?—A. Naturally she was too ill.

Q. Did she stay in bed all that morning?—A. I think so.

40 Q. You said you came back some little time after nine?—A. Yes, she was in bed when I came in.

Q. And you were about the house?—A. Yes.

Q. Did you see her make the sketch?—A. No.

Q. Where did she make it?—A. I said she was in her bedroom.

Q. You were in to her bedroom, I suppose?—A. I would be in and out of the bedroom, I suppose.

Q. As a matter of fact you were both occupying the same bed and living in the same room?—A. Yes.

50 Q. And your clothes and everything were in that room?—A. Not all my clothes.

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Q. Did you take a cup of tea in to your wife, for example?—A. Yes, I took a cup of tea in during the morning. She was so sick then at the time that she did not eat much.

Q. Do you realise the lines there are firm lines, do you not?—
A. No, yes.

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Q. You did not assist in that?—A. No.

Q. It was all done by your wife?—A. Yes.

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(Further hearing adjourned until 10 a.m. on Friday, 3rd December 1943.)

CAUSES.

Coram : EDWARDS, J., and a
Jury of four. 10

HOCKING V. BELL.

Fourth Day, Friday, 3rd December 1943.

EDMUND HOCKING.

Further cross-examined.

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Mr. CASSIDY : Do you remember telling the Court yesterday that you noticed half an inch of that tube protruding?—A. Yes.

Q. I want to take you back to the first trial, and is this correct, that you noticed that half-inch protruding on the day following the operation?—A. If that is so, it would be correct, I don't remember it.

Q. "You told us that you had noticed this half-inch of tube protruding 20
on the day following the operation?—A. Yes." That is right, is it not?
—A. That is right what I said there.

Q. Then this is the next question : "That is right, is it? The day following the operation." Now I want you to listen to this again : "I understood you to say that, is it right, correct me if I am wrong?—A. Yes, on the day following the operation." Is that right?—A. Yes, that would be right if it is there.

Q. "You agreed with that?—A. Yes." Correct?—A. Yes, that is what I said, I must admit to the notes.

Q. "That is the only time you saw it?—A. That is definitely the only 30
time I saw it, yes." Is that what you said?—A. That is what I said, if it is on the record there.

Q. You realise, do you not, that I am putting that on the first trial that you described that tube as protruding?—A. Yes.

Q. And the second point that the only time that you saw it was the day following the operation?—A. Yes, I follow that.

Q. And you understand that position quite clearly, don't you?—
A. Yes.

Q. And that is correct, is it?—A. I probably had a clearer recollection at that time than I have now, a long time has elapsed since then. 40

Q. You have refreshed your recollection by discussing and looking at your previous evidence?—A. No, I have not seen that evidence.

Q. Haven't you read what you said each time before?—A. No, I have not.

Q. It is in book form, is it not?—A. As I see it there, yes.

Q. On the day after the operation I want to put to you the position with regard to your wife's neck was this, that first of all she had a pad that size over the neck. (Indicating) ?—A. I don't know whether it was that size or not, she had a pad.

Q. Of thickness similar to that ?—A. Similar, I won't say that thick or how thick it was.

Q. And on top of that she had the next one slightly lower ?—A. I don't know about that.

10 Q. And then another one with the sticking plaster which goes around the neck, that was the position, was it not ?—A. Something like that, I don't remember exactly.

Q. Can you tell the gentlemen how you saw that tube ?—A. As I stated yesterday, when visiting Mrs. Hocking I was sitting down low, and as I recollect I saw it under the bandage.

Q. Saw it through, under the bandages ?—A. Not through the bandage, but I was much lower than the wife, she was higher up.

Q. But down over her chest comes something else, does it not ?—A. I don't know whether that was down over her chest.

20 Q. May I take it then that you are saying to us now that if I am holding my arm like that (indicating) that you saw up there (indicating) ?—A. Probably some of the sisters or nurses were in the room attending to her.

Q. Probably when they were in the room attending ?—A. They were frequently in and out while I was there.

Q. On this second day you saw them there frequently while you were there ?—A. They were in and out every day.

Q. Is that it, that you saw it when the nurses were attending ?—A. I saw it at one time, I have a recollection of a tube, that is all.

30 Q. Now I want to come again to some further evidence you gave at the first trial. Do you remember swearing that Dr. Bell did not examine your wife's throat—is that correct that you say that Dr. Bell did not examine your wife's throat ?—A. When, at what stage ?

Q. When she was in St. Luke's in October 1939 ; do you say Dr. Bell did not examine her throat ?—A. I was not in the room when he made the examination, therefore I cannot say.

Q. You asked your wife, surely, didn't you ?—A. I don't remember whether I asked her on that occasion or not.

40 Q. Well, what was your knowledge, say, by the time your wife came out of St. Luke's, that Dr. Bell had examined her throat or had not examined her throat ?—A. I thought he had examined it, I would naturally think that he would, coming back on an occasion like that, I would assume that.

Q. Can you remember one way or the other whether you swore before that Dr. Bell did not examine her throat in St. Luke's Hospital in October 1939 ?—A. No, I cannot remember.

Q. You remember yesterday you told the Court that you spoke to Dr. Bell at St. Luke's and that you spoke about the scar inside your wife's throat, do you remember saying that yesterday ?—A. I am just trying to think.

50 Q. That is what you swore yesterday, isn't it ?—A. I think there is something wrong there.

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Q. If I am wrong, where was it that you say Dr. Bell said—— ?
—A. Was the inside mentioned yesterday at St. Luke's? I remember being asked of a conversation.

Q. In any event you say that Dr. Bell then said when you spoke about the scar inside the throat, whenever that conversation took place —you say it was a conversation about the inside of the throat ?—A. Yes, I remember a conversation about the inside of the throat, but not at St. Luke's.

Q. Was it Easter 1940, when you came down ?—A. Yes.

Q. You came down then to demand money ?—A. Let me explain. 10

Q. Did you come down then to demand money ?—A. Something was suggested to me.

Q. Did you come down to demand money ?—A. Yes, but it needs a qualification.

Q. Is this what you said yesterday—" I said ' What caused the scar on the inside of the throat ' " ?—A. Yes.

Q. Can you remember if before that date Dr. Bell had examined your wife's throat ?—A. I don't remember whether he had or not, I would assume that he would have examined it in the hospital.

Q. I want to read you now what you said in the first trial. On the 20 first trial what you said was that you spoke about the mark on the outside of the throat, wasn't it ?—A. I don't recollect saying the outside.

Q. Will you deny you said the outside ?—A. I could not have said the outside, there was no scar on the outside.

Q. Will you deny that you said the outside ?—A. I have no recollection of it.

Q. You had forgotten all about it ?—A. I have no recollection of having said outside at any time.

Q. Is that your evidence that if you said outside you have forgotten ?
—A. I don't think I said outside at any time. 30

Q. Is it news to you that you might have said outside at the first trial ?—A. I can't imagine saying it.

Q. Can't you remember saying it ?—A. No.

Q. Can you remember anything being suggested about you saying "outside" ?—A. It was suggested at the other trials, I could not have said it, there was no scar on the outside of the throat.

Q. But there was, wasn't there ? Near where the artery was severed, the big artery ?—A. If you are referring to the surgical scar.

Q. Do you say there is no mark ?

Mr. SHAND : You said " scar." 40

Mr. CASSIDY : Mark and scar, there is a difference, is there ?—
A. I don't know.

Q. For the moment we will call it a mark. Do you say that there is no mark from the operation ?—A. There is the mark that the surgeon made.

Q. Do you say there is no mark from the operation where the superior thyroid artery was severed ?—A. I don't know where the superior thyroid artery is.

Q. Didn't Dr. Bell say something to you about it when you referred to the mark on the outside of the throat ?—A. I don't remember referring 50 to the outside of the throat.

Q. There was up to the last trial a mark on the outside on the left of the throat?—A. There is no scar that I know of.

Q. Is there a mark?—A. I think there is a depression in one spot, I would not call it a scar.

Q. It was not there before the operation, was it?—A. No.

Q. So that these gentlemen will not be confused, it is not the mark where the tube went in?—A. No, definitely not.

Q. Because it is on the left-hand side?—A. There is a lot of difference between a depression and a scar.

10 Q. On the left-hand side just about an inch above the incision mark?—A. Yes.

Q. That is where it is?—A. Somewhere on the left side, I don't know whether it is an inch or more.

Q. Do you say that you have not heard of the superior thyroid artery being severed?—A. No, I don't know anything about that. To be candid with you, Dr. Bell said he had some trouble with a vein, I think he called it.

20 Q. Now I want to go back to what I suggest you swore on the first trial—"At one time I said 'Can you tell me what caused the scar outside that position.'"?—A. I cannot remember saying that.

Q. Have you looked at it since?—A. No.

Q. Have you discussed it since?—A. It was brought up at the second trial, I think some argument arose whether I said "outside" and I said I would not admit "outside," if you turn up my evidence.

Q. I want to take you now to the third trial. "And you said that Dr. Bell had suggested that the scar on the inside of the throat might have been caused by a knot?—A. Yes"?"—A. I said "inside," there.

30 Q. That was on the second trial, for the first time you said, I put it to you, that the scar on the inside of the throat might have been caused by a knot?—A. I must have said "inside," because that is where the trouble was.

Q. That is the first time you said "inside," isn't it?—A. I am putting it as I recollect it, I have no recollection of saying "outside" at any time, I am very definite on that.

Q. If the records are correct, the second trial is the first time that you said that that scar was on the inside?—A. I think I have said it at three trials now on the inside.

Q. If the record is correct, the second trial is the first time that you said that that scar was on the inside?—A. If the record is correct, yes.

40 Q. And you will agree that the records are correct, will you not?—A. I cannot dispute the records, but could not a mistake be made in writing or from notes—I am not suggesting that there is anything deliberate.

Q. "Do you swear that that was said by Dr. Bell?—A. Yes." Then you come to the next question, and you remember something happened. You resumed evidence about a day later?—A. Not a day later.

Q. Two or three days later?—A. Yes.

50 Q. And I want to put this to you, when you resumed do you remember this question being asked: "Do you swear that it was inside the throat that was mentioned by you?—A. I do"?"—A. Yes, that is right.

Q. "Do you remember when you gave evidence on the first occasion to Mr. Hardwick you described this very interview?—A. Yes." Is that

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right?—A. I don't remember it being put that way, but if it is there I will admit it.

Q. And on that occasion do you remember saying this—"During the course of the conversation Dr. Bell said 'If you are going to talk like that you had better go and see your solicitor.'—A. Yes, I remember that."?—A. Yes, I remember the remark being put.

Q. "At one time I said 'Can you tell me what caused the scar outside that position,' and he said 'A large knot caused the scar'?"—A. At the last trial?

Q. Do you remember saying "outside that position"?—A. I have no recollection of saying outside." Is that the answer you gave?—A. Yes. 10

Q. "Do you remember my drawing your attention to that on a previous occasion?—A. Yes. Q. And did you admit that that is what you said in evidence?—A. I don't admit I said the inside." Is that a correct representation of what you said?—A. As far as I recollect, I always said "inside".

Q. "Will you admit now that that is what you said on a previous occasion?—A. I did not admit that . . ." and exactly the same question was asked again: "Will you admit now that that is what you said on a previous occasion?—A. The record says that, that is all I can admit, that the record says that"?—A. The record was read out to me and I took it that it was on record. 20

Q. "I asked you this question 'Will you admit what you said before—etc.," and your answer is "There is no doubt about that, I agree with that." That is what you answered, isn't it?

His HONOR: That is the difficulty of not having the previous evidence in the transcript as read to the Witness.

Mr. CASSIDY: I will check up on the previous transcript.

Q. You follow that if Dr. Bell had never looked inside her throat he would not know about the scar inside her throat?—A. Not if he never looked there. 30

Q. And do you seriously put it that he did not look when this woman came down from the country?—A. I don't think I have ever suggested that, I have no recollection of ever suggesting that he did not look at her throat when she came to St. Luke's.

Q. Do you agree that after the first few days Dr. Bell did look?—A. I cannot agree because I was not there.

Q. Didn't you know?—A. I may have been told.

Q. What were you told?—A. I don't remember exactly what I was told, I naturally assumed that the man would have examined the throat when she went back for treatment. 40

Q. Do you suggest that he left it for five days before he examined it?—A. I am not suggesting that.

Q. You did not leave Quirindi until the 25th October?—A. No, about three weeks after.

Q. Didn't you see Dr. O'Hanlon having a look before she left Quirindi?—A. The night he was called he tried to have a look in the mouth.

His HONOR: That is the night of the 6th?—A. Yes.

Mr. CASSIDY : At no other time did he try ?—A. No, I did not see him.

Q. Do you say that he did not look ?—A. I don't remember him looking after the night of the 6th when he was called.

Q. He was at your place the following morning and drove your wife to the hospital, did he not ?—A. Yes.

Q. I want to read you this—" You appreciate there is a tremendous difference between the outside and the inside in the matter of that nature ?—A. Quite so " ?—A. Yes, there is a difference.

10 Q. And this is when you were in Dr. Bell's rooms in March or April 1940—" You admit that on that occasion Dr. Bell, as far as you remember, made no examination of your wife's throat ?—A. As far as I remember he did not make any examination inside the throat " ?—A. Not on that occasion.

Q. So that refers to that occasion, does it ?—A. Yes.

Q. So then at least he made no examination of the inside of her throat ?—A. Not on that occasion.

20 Q. " Will you admit that that is what you said before, because if necessary I will call the Court reporter to prove it ?—A. There is no dispute about that, I agree with that " ?—A. I agree that I imagined that I could not upset a reporter's report, it would be against the rules of Court.

Q. Will you admit that this is what you said before : " There is no dispute about that, I agree with that." That is what you said before ?—A. I don't remember saying the outside on any occasion.

Q. You will agree that that is the evidence that you gave on the previous occasion ?—A. If it is there, I will agree.

Q. " And you appreciate that your account on this occasion is different to your account that you gave before ?—A. Yes " ?—A. Different by reason of the report in the record which I assume to be on the record.

30 Q. " You have a very clear recollection of exactly what everyone said ?—A. Yes, Dr. Bell did examine her throat " ?—A. On that occasion or some other occasion ?

Q. Did Dr. Bell examine her throat that day ?—A. Yes, he examined the outside of her neck.

Q. There was nothing wrong with the outside of her neck ?—A. He had a look at the surgical scar, the incision made. He unbuttoned the dress and had a look there.

40 Q. And you could not miss that depression, could you ?—A. I am not referring to the depression as a scar. I take it a scar is where the thing is cut and there is a definite mark.

Q. I pass to another incident now. This is correct, is it not, that the first reference by your wife to the removal of that tube by Dr. Bell was after the 5th October 1939 ?—A. She told me in the hospital at the time of the removal of the tube that it had been removed and that it hurt somewhat.

Q. Would it be quite wrong to suggest to you then that the first reference by your wife of the removal of the tube by Dr. Bell was after the 5th October ?—A. No, not the first time.

Q. That is false, is it ? (Objected to.)

50 Q. Would that be wrong, that the first reference by your wife to the removal of that tube was after the 5th October 1939 ?—A. To the method of removal of the tube.

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Q. About the pulling and so on ?—A. That portion of it, yes, but not the removal of the tube.

His HONOR : Not to the fact of the removal ?—A. That is right.

Mr. CASSIDY : Nothing was said then about Dr. Bell pulling on the tube or having hurt her to get it out until after the 5th October 1939 ?—A. No, I don't remember that being mentioned.

Q. You were there how many times a day in the early part of the operation ?—A. Twice a day, I suppose sometimes I would see her once and sometimes three times a day.

Q. And never once did your wife mention that Dr. Bell pulled her and hurt her throat ?—A. No. 10

Q. Or that the tube was in so far that he had to put his hand on her forehead and pull it out ?—A. I don't know what method they would use to take it out.

Q. And your wife did not tell you that ?—A. No.

Q. And I take it the first time you heard of any such thing was after the 5th October 1939 ?—A. I think I agreed with that before.

His HONOR : Do you agree with it now ?—A. Yes, I agree with it now.

Mr. CASSIDY : You remember I was putting to you a number of 20 times yesterday that from October 1938 until October 1939, your wife was not troubled with the swelling of the neck, but her trouble, when it occurred, was tetany ?—A. Yes, I remember you saying something about that.

Q. And you remember you gave evidence that Dr. O'Hanlon came on the 1st February 1939 ?—A. I don't think I agreed to the 1st, did I ?

Q. You may take it you mentioned it in your own evidence in chief ?—A. I don't think I specified a date.

Q. Well, February 1939 ?—A. In February, yes, I would agree to February, but not the 1st. 30

Q. Do you remember me asking you yesterday was not the purpose at that time that you were going away from Sydney and you asked him to take a look in in case there were any spasms ?—A. I rang him and asked him to be readily in attendance, but he was not there during the days I was away, it was after I returned that Dr. O'Hanlon was there.

Q. At that time I want to put it to you that your wife had no trouble with her throat and no swelling in her throat ?—A. She did.

Q. That is quite clear, is it ?—A. Yes.

Q. Did the throat have anything to do with asking him to come and look at her ?—A. No, he was always called on account of tetany, 40 the spasms.

Q. Never on account of the throat or neck ?—A. I always associated—

Q. Never on account of the neck ?—A. I took it the swelling was associated with the spasms, the whole of the trouble as explained by Dr. O'Hanlon, was caused by the throat and that was the cause of the tetany.

Q. What did he do for the swelling, anything ?—A. In hospital there were hot fomentations.

Q. This is in February 1939 ?—A. I don't remember any hot 50 fomentations then.

Q. You don't remember him doing anything for her throat, that is the truth, isn't it, you don't remember him doing anything to the throat ?—
A. Not at that time, no.

Q. And that is from the time she left Quirindi Hospital right through to October 1939, isn't it ?—A. I think we admitted that he had not been there in 1938 and 1939—February and September.

Q. From the time Sister Sly left when it had healed up till October 1939, he never attended her for the throat, did he ?—A. No.

10 Q. "Her trouble on that occasion, had it anything to do with her throat, was it not something quite different ?—A. I was coming to Sydney and I rang Dr. O'Hanlon and told him I was leaving Quirindi for a day or so, and I was taking my daughter down and in the event of him being called would he be ready immediately." ?—A. I remember ringing him.

Q. "Having regard to the state of your wife's health, what was her general health ?—A. At that time ? Q. Yes ?—A. She still had the tetany spasms. Q. Had she anything else that you can think of why the doctor was called in in February ?—A. Not other than her condition of tetany" ?—A. He was called for the condition of tetany even when the swelling was most severe.

20 Q. "No other than attention for her condition of tetany." That would be right, that would be what you swore ?—A. That would be so.

Q. And I suppose after that you go on to say that you did not remember any other illness wrong with her except that she may have had a cold or something of that nature ?—A. Yes, with the spasms.

Q. Do you remember on the second trial and again in the third trial giving this evidence, that the swelling of your wife was such that people who did not know her would not notice it ?—A. Not the whole of the time.

Q. Did you qualify it in any way ?—A. I have qualified it, yes.

30 Q. Did you then on either of those occasions ?—A. I don't remember. I think His Honor asked me some question about it.

Q. It was His Honor asked you, not one of the Counsel ?—A. Yes.

Q. Of course, you realise, do you not, that if there is a thing about 2 inches long in your throat and it is suppurating it would cause a bit of an abscess, would it ? (Objected to.)

Q. What would you expect if a thing like that was abscessed, wouldn't you expect a big swelling ?—A. I assume there would be.

40 Q. "His HONOR: I think something you said just now rather indicates that the swelling was not of such a marked degree that it was certain that persons who did not know your wife would notice it and those who did would notice it, is that a fair way of putting it ?—A. Yes, that is what I wanted to say" ?—A. Yes.

His HONOR: What period does that refer to where you said that people who might know your wife might notice it, but people who did not know her might not notice it. What does that period cover ?—A. It covered from the period that Dr. O'Hanlon ceased visiting.

Q. That would be after October 1938 ?—A. Yes. Up till the incident of the tube, except for those two visits—

Q. Up till the 2nd October 1939 ?—A. Yes.

50 Mr. CASSIDY: You fully grasped the question of His Honor and you fully understood it ?—A. Yes.

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Q. Up till the 2nd October 1939 ?—A. Yes.

Q. You remember that you told us yesterday that it was at 3 o'clock in the afternoon that your wife had the trouble and you had to get water through her mouth—through her teeth ?—A. Yes.

Q. That was the 2nd October ?—A. Yes.

Q. Is it right that your wife did not say anything about swallowing something until five days after ?—A. No.

Q. That statement could not be made by you, it would be quite wrong ?—A. Five days after the incident—

Q. Until the morning of the 7th. Is that right ?—A. No. 10

Q. You could not make a mistake about that ?—A. No, I don't think the 7th could have been suggested.

Q. You agreed yesterday that she had not told you anything about the swallowing. It was the morning of the 5th when it came out—when it is alleged to have come out. That the sketch was drawn of course—

His HONOR : Commenced to be drawn—was not finished.

Mr. CASSIDY : Yes.

Q. I am putting to you that your wife did not tell you a word about swallowing anything—the alleged swallowing took place on the 2nd—until the 7th. Is that right ? 20

His HONOR : That is the Saturday morning.

The WITNESS : No, I don't think it was that long.

Mr. CASSIDY : How long was it, do you tell me ? How long was it before she told you about it ?—A. The following day, probably.

Q. What time ?—A. The 3rd, I think.

Q. What time ?—A. I don't know what time of the day.

Q. But this was a very alarming incident, we have heard ?—A. There were very many alarming incidents in this illness.

Q. But nothing like this, was there ?—A. Well, I have seen her near death many a time. It was most alarming. 30

Q. When do you say now that she told you about swallowing anything ?—A. She mentioned about something in her stomach—in her chest.

Q. Will you listen to this carefully ? This is page 180A, second trial : “ You knew then and you know now that it was suggested that that ulcerated into your wife's mouth on the morning of the 2nd October and she had the spasm you told us about,” and you said : “ In the afternoon ” ?—A. She had the spasm in the afternoon, yes.

Q. That was the evidence you gave before. That is right, isn't it ?—A. Yes. 40

Q. Then you go on. You were asked : “ Yes, at 3 p.m.” Did your wife tell you one word about being aware of having something in her mouth either on the 2nd, 3rd, 4th or 5th October ? Have you any recollection of your wife referring to it at all ?” Your answer was : “ No, I cannot remember clearly.” Is that right ?—A. I cannot remember clearly now.

Q. “ Are you prepared to agree with me that your wife did not tell you ?” and your answer was : “ I am not prepared to say whether she did or not.” Does that clearly represent your evidence ?—A. I think so. I am not quite clear on it now, so I was not clear on it then, apparently. 50

Q. What colour did your wife tell you the pus was that she squeezed out?—A. A greenish yellow.

Q. Do you remember that?—A. I remember her saying something about a greenish-yellow pus—a greenish pus.

Q. Have you discussed that with her?—A. No, I have not.

Q. Have you mentioned to your wife during the last two days that there was a lot of talk about whether it was green or greenish yellow?—

A. No.

Q. Has she said to you anything about it?—A. No.

10 Q. Did she ever tell you it was greenish yellow?—A. She told me at the time, I think.

Q. Greenish yellow—is that right?—A. A greenish or a greenish yellow, as I remember it.

Q. What did you call it on the first occasion?—A. I don't remember.

Q. Did you ever use the words "greenish yellow" then?—A. I don't know.

Q. Have you looked it up?—A. No.

Q. Have you not asked about what you said about it before?—

A. No, I haven't asked about that. I have not asked anyone what I 20 said about it.

Q. This is on page 88. Will you agree with this, being asked by Mr. Monahan this question: "Did she tell you the colour and did you say this: 'It was a greyish tube and the pus was a greenish colour'?"—A. I believe I did say something like that.

Q. Not something like that—did you say that?—A. Yes, I said that.

Q. Did you go on: "Did it not strike you as very important that she was telling you a very strange looking stuff was evidently coming away from this when it was pressed—green pus?" And your answer was: "It was greenish." Does that correctly record what you said?—A. Yes, 30 that would be correct. If it is there that would be correct.

Q. You remember Dr. Poate giving evidence, don't you?—A. Yes.

Q. You remember Dr. Welsh giving evidence?—A. Yes.

Q. And do you remember Dr. Poate saying it would not be green? (Objected to.)—A. I don't recollect what Dr. Poate said about the pus.

Q. Do you remember Dr. Welsh saying it would not be green?—

A. No, I don't remember.

Q. Did you hear this—you heard this matter of the green and the greenish yellow ventilated at every trial, did you not?—A. I don't recollect.

40 Q. But hasn't it made some impression on you?—A. No, it has not made any impression on me.

Q. Hasn't it made some impression on you?—A. No.

Q. No impression?—A. No, not about the pus—the colour.

Q. You came down to Sydney when the Full Court judgment was delivered, did you not?—A. I was in Sydney on business.

Q. And you were up at Court when the judgment was delivered?—

A. I was not.

Q. Well, you saw the judgment, didn't you?—A. No.

Q. Never read it?—A. No. I was present at the hearing, but I 50 don't know anything about the judgment.

Q. Were you ever told anything that was said about the green?—

A. No.

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Q. Never said to you ?—A. No.

Q. Nobody even told you that ?—A. No, I don't remember that being mentioned.

Q. I want to put it to you solemnly and seriously—(Objected to).

His HONOR : Ask the question.

Mr. CASSIDY : I want to put it to you, haven't you and your wife been discussing this matter of green and greenish yellow within the last 48 hours ?—A. No.

Q. You know a Mr. Howard of Quirindi, do you not ?—A. Yes.

Q. A building inspector ?—A. Yes.

Q. Will you agree that these are the inside measurements of your lavatory—4 feet 9 inches by 3 feet by 7 feet, high. Is that right ?—

A. That would be approximately it.

Q. The cistern is about 8 inches below the ceiling level ?—A. About that.

Q. The ceiling level is about 7 feet high ?—A. Approximately that. I haven't measured it.

Q. But you agree with those measurements ?—A. Yes.

Q. The door leading into the lavatory is 2 feet 6 inches wide ?—
A. Yes, I agree with that.

Q. That is a plan of your house (shown to Witness). A ground plan ?—
A. Yes.

Q. And here is the lavatory, on your verandah ?—A. Yes.

Q. That is the lavatory room with the door opening in that fashion (indicating) ?—A. I think that is very much out of proportion, though.

His HONOR : It is not drawn to scale.

Mr. CASSIDY : No, nobody has drawn it to scale.

Q. That is the way the door opens ?—A. Yes.

Q. I show the Witness document marked " A " for identification.

(Document now marked m.f.i. 3.)

Q. The document I show you now is certainly not drawn to scale ?—
A. No.

Q. The door is opening back towards the wall ?—A. Yes.

Q. The cistern is situated about the middle of the wall, is it not ?—
A. Yes.

Q. Your handle comes out like that (indicating) over the centre of the cistern and hangs there. That is right, is it not ?—A. Yes.

Q. Your pan comes out slightly past the cistern, do you follow what I mean ?—A. Yes. The pan comes out about 2 feet.

Q. Yes, your cistern being about that width ?—A. The cistern is at the top.

Q. Yes—

His HONOR : It holds the water ?—A. I haven't measured it—about a foot.

Mr. CASSIDY : That distance is about 4 feet 9 inches, indicating the depth ?—A. Yes.

Q. The door is a 2-feet wide opening ?—A. A 2 feet 6 inches opening.

Q. And the door swings in like that (indicating) ?—A. Yes, it swings to about 6 inches of the pan.

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Q. And I suppose if anybody is leaning against it it goes back as far as it can get towards the wall?—A. Yes, back towards the wall.

Q. And how close towards the wall does it go?—A. It goes to within about 6 inches of the wall.

Q. Now, the length of the chain attached to the cistern is 2 feet?—A. About 2 feet, yes.

Q. So that the end of the chain is 5 feet above the floor, is it not?—A. No, the roof is 7 feet and the chain is about 2 feet, and the cistern is lower than the roof, isn't it?

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10 Mr. SHAND : Eight inches, according to Mr. Cassidy.

Mr. CASSIDY : Eight inches. Take 8 inches off 7 feet. That is 7 feet less 8 inches less 2 feet—2 feet 8 inches off 7 feet?—A. That is 4 feet 4 inches.

Q. That is the height of the chain?—A. Yes.

Q. Is this a much clearer plan (handed to Witness)? It gives the various rooms in the house. Will you agree that that is a fair representation not drawn to scale?—A. It is a representation, but it is not nearly to scale, regarding that portion of it (indicating).

20 Mr. SHAND : Regarding the lavatory portion of it?—A. The lavatory portion of it is not nearly to scale.

Mr. CASSIDY : But none of it is to scale?—A. It gives you some idea.

Q. It gives you some idea of the layout of your property?—A. Yes.

Q. It shows your verandahs and the various rooms?—A. Yes.

Q. And the room your wife was in that day was this one (indicating)?—A. Yes.

Q. The one that has got "study" on it?—A. Yes.

Q. That is the room your wife was in?—A. Yes.

Q. And the bathroom is adjacent there (indicating)?—A. Yes.

30 Q. That plan is all right, isn't it?—A. Yes.

Q. It is not to scale?—A. No.

(Plan m.f.i. 4.)

Q. Now, what your wife told you about that incident was this, was it not, that she heard someone coming, that she dropped the thing in the pan, and then pulled the chain. That is what your wife told you when she did tell you?—A. No, not dropped it and then pulled the chain.

Q. That she dropped it in the pan and then pulled the chain?—A. I don't remember it ever being put that way.

Q. That is what you told Dr. O'Hanlon, didn't you?—A. No.

40 Q. Will you deny it?—A. I have no recollection of telling Dr. O'Hanlon at all.

Q. Will you deny it?—A. Yes.

Q. Did you yourself swear this at the first trial—page 89, line 4 : "Did she tell you that she heard the footfalls before she tipped the contents of the receptacle into the pan." "She said she heard the footsteps coming and immediately dropped the thing into the pan." Is that right?—A. I don't remember what I said on that date.

Q. Will you agree that if it is there that is what you said?—A. Yes.

50 Q. "She said she heard the footsteps coming and immediately dropped the thing into the pan." "And then pulled the chain on it, is that it?"

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and your answer was "Yes, and pulled the chain" ?—A. I think Mr. Monahan suggested "And then pulled the chain."

Q. No, not Mr. Monahan—"And then pulled the chain on it, is that it ?" and you said "Yes, and pulled the chain" ?—A. If it is there I must have said it.

Q. "Is that what she told you, that she dropped it into the pan and pulled the chain," and your answer was "Yes. She told me she had it in her fingers and that she dropped it in and pulled the chain and it was gone." That is what you swore, wasn't it ?—A. Dropped it in when ?

Q. "Dropped it in and pulled the chain, and it was gone" ?—A. I don't remember it being put that way.

His HONOR : But that was your answer, wasn't it, Mr. Cassidy suggested.

Mr. CASSIDY : Those are the words you used.

His HONOR : "Yes, she told me she had it in her fingers and that she dropped it into the pan and pulled the chain and it was gone" ?—A. I don't remember that.

Mr. CASSIDY : And when you saw her she was hurrying back to her bedroom ?—A. Yes. I said something about hurrying back to her bedroom.

Q. Your wife, you told us I think, have you not, received massage for these spasms ?—A. Yes.

Q. I want you to think before you answer. And that massage was of which parts of her body ?—A. Of the arms, the legs, and the face. That side of the face (indicating).

Q. Is that the lot ?—A. Sometimes I rubbed round here when she was in a very bad condition (indicating), near the heart, or where I imagined her heart would be.

Q. Is that the lot ?—A. Yes. Her arms, legs, feet and face. 30

Q. Not the neck ?—A. Well, I included that in the face—the side of the neck and the side of the face.

Q. So we may take it the left-hand side of the neck ?—A. Yes, and possibly a little round here. (Indicating.) Very gently on the left side.

Q. Who did that ?—A. I did.

Q. Did the massage give relief ?—A. Well, I thought it did.

Q. You had sworn that it did before, didn't you ?—A. I don't think that I swore. I said I think—I imagined that it did.

Q. But that was observable, wasn't it ?—A. She came back to consciousness and I thought it was the massage, and I still think so. 40

Q. And you kept at it ?—A. Yes.

Q. Was the head massaged ?—A. Do you mean the top of the head ? No—

Q. Round the back. (Indicating) ?—A. No, just up the side here (indicating), if I recollect.

His HONOR : You mean the side of the neck ?—A. Yes, right up the side, including the face and the neck.

Mr. CASSIDY : And that was at all times throughout this history you have given us—this form of massage went on—is that right ?—A. Yes, it went on. The injections were given and the massage continued. 50

Q. And it gave immediate relief, did it not?—A. Well, you could not say immediate. It might take some time for her to return to normal and consciousness.

Q. But you asked on the previous occasions that it did give immediate relief?—A. Well, it did not give instant relief. It continued for some time. I don't mean to infer that it gave instant relief instantly you massaged. The massage was continued for some time.

Q. For what length of time?—A. Sometimes half an hour and sometimes longer. In the hospital it was over a long period.

10 Q. Would it be right to say that if you kept up the massage the spasms would pass away while you were massaging?—A. They did.

Q. Then I put it to you that you used to massage the side of her face?—A. Yes.

Q. And particularly the left side?—A. Yes, particularly the left side.

Q. Was this right—the more you massaged the less the spasms became?—A. As I thought.

Q. As you thought?—A. Yes. That was my impression. It gave relief and that was why I did it.

20 Q. And while you were massaging this neck, did you at any time ever feel any foreign body about?—A. If I felt anything I would not know if it was a foreign body.

Q. But did you feel that there was a lump there?—A. No, I cannot say that—felt a lump. There was swelling—unless you call that swelling a lump.

Q. You have sworn that at no time did you feel a lump?—A. No, I don't remember feeling any lump.

Q. In spite of the paroidin and the calcium lactate, the spasms continued, did they?—A. Yes.

30 Q. And they changed in nature, did they not, from what they were early?—A. No, not to my knowledge.

Q. What—didn't change? Do you know that that is an important matter?—A. I did not observe any change during the whole of that time in the nature of the spasms, only that some spasms were more severe and of longer duration than others.

Q. Well, for a start, they began to get worse after she went into Quirindi Hospital, did they not?—A. Yes. As I said before, at the early stages they were less severe.

40 Q. Up till when she went into Quirindi Hospital she had not had real spasms, had she?—A. She had not lost consciousness. Her hands and legs were drawn.

Q. But they got much worse, didn't they?—A. They got worse during the time she was in hospital.

Q. And at a later stage—that is some time after hospital—her hands clenched much harder, did they not?—A. I don't remember that.

Q. But you would notice that?—A. Yes, they were always clenched except in the early stages, when the contractions were not as great, prior to going to hospital the first time, but after that the contractions were always great.

50 Q. Show me how?—A. The thumbs were in like that, and eventually they would come over like that. (Indicating.)

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Q. You noticed in the early stages and in Quirindi Hospital that the hands were more that way (indicating), were they not?—A. Not in Quirindi Hospital.

Q. They had got to what in Quirindi Hospital?—A. They got to what they call the extreme stage—bent right round.

Q. Were they biting into her hands, in Quirindi Hospital?—A. I think they were.

Q. I want you to listen to these things you were asked, on page 61 of the first trial. "Would you explain to His Honor and the jury how the cramps affected your wife." Your answer was: "First of all the fingers would draw up like so," and you demonstrated?—A. Yes, I demonstrated. 10

Q. When would that be—in hospital or not—in hospital in Quirindi or not? (Objected to.)

Q. What period are you referring to?

His HONOR: What period were you referring to when your answer was: "First of all the fingers would draw up like so," and then you demonstrated. What period were you covering when you said "First of all"?—A. Possibly I meant the early stages of the spasms coming on, the commencement of the spasm, and as the spasm developed so the fingers came in like that. (Indicating.) 20

Mr. CASSIDY: I am putting to you that you meant something entirely different?—A. No, I did not.

Q. That you meant by "first of all" the first stages—the first times and periods that these spasms were on, they would draw up in the way you have indicated?—A. Before going into Quirindi Hospital the spasms were not so great.

Q. Up till the time your wife went into Quirindi Hospital hadn't she had any spasms when her hands were drawn up like that. (Indicating)?—A. Yes, they were drawn up.

Q. Right up?—A. I think at times they were drawn up right. 30

Q. Before she went into Quirindi Hospital?—A. Yes, but the spasms became more severe when intravenous injections were resorted to.

Q. I put it to you that by the 2nd May the spasms had not got to that severe stage?—A. Not to that severe stage when she went unconscious.

Q. She had not had any of those in Sydney?—A. No.

Q. She went into hospital on the 4th May. How long before she went into hospital did she have those spasms where the hands were drawn up. How long before she went into hospital?—A. Well, when she went home the spasms were not so severe and they would gradually develop as time went by. 40

Q. They got worse, did they?—A. Yes.

Q. From the time you went home?—A. Yes.

Q. Did they get slightly better? They got slightly better, did they not? You went home by car?—A. Yes.

Q. They got slightly better?—A. No, I don't think they got better.

Q. Isn't this the fact, that the first severe spasm came after her entry into Quirindi Hospital?—A. The first very severe spasm where she lost consciousness, yes.

Q. I will read to you the rest of the answer: "First of all the fingers would draw up like so (indicating), not actually locked like they did in the latter stages, and the feet were drawn in towards one another"?—A. Yes. 50

Q. " Sometimes I massaged and it was all gone in a few minutes " ?—
A. Yes. That was shortly after she returned to Quirindi—before any intravenous injections were given.

Q. Did you illustrate on one occasion how her hands were drawn up and they locked, as you call it. Did you illustrate that in Court ?—

A. I have illustrated it, yes.

Q. Did you see where her fingernails had made cuts in her hands ?—

10 A. I don't know whether they cut into her hands. I know that the fingers were clenched on to the palms of her hands. I have seen the marks of the nails in the palms of her hands.

Q. In what way ?—A. Well, there you are (indicating). With the contraction of the spasm there would be naturally a mark.

Q. Have you ever seen any cuts there ?—A. I don't say that I have seen cuts there. I have seen marks.

His HONOR : The skin broken ?—A. No, not the skin broken—a whitish mark ; a whitish red mark, sometimes a red mark.

Mr. CASSIDY : On the 2nd May you wrote to Dr. Bell, did you not ?
—A. Yes, I do not remember that date I wrote to Dr. Bell.

20 Q. And at that stage you said " The tetany is still very annoying " ?
—A. Yes.

Q. " But the attacks do not last quite so long " ?—A. That was the 2nd May, was it ?

Q. Yes. That was right, wasn't it ? Was that right ?—A. Yes, that must be right.

Q. And you did not say one word about her having her hands drawn up and her fingers being locked like that—that it got that bad ?—A. I would not say that to the doctor.

Q. Why not ?—A. The doctor should have understood tetany. He told me before she left the hospital.

30 Q. But wouldn't you have told the doctor ?—A. No.

Q. Why not ?—A. The doctor ought to know what tetany was.

Q. At that time do you suggest that her condition was worse than you told the doctor ?—A. I never exaggerated to the doctor.

Q. Didn't you mean it when you said " The tetany is still very annoying but the attacks do not last quite so long " ?—A. Well, as I have told you, from time to time the conditions were up and down. She was taken to hospital two days later—

Q. But you never wrote and told the doctor that ?—A. I did not write and tell the doctor everything that happened from day to day.

40 Q. On that occasion I suppose there were many other things you were telling the doctor about your wife's condition ?—A. Well, you have the letter there. You know what I said.

Q. Well, do you tell me now that prior to writing that letter, that your wife had had her fingers locked and her knees were drawn up ?—
A. Not to the extent they were after going into hospital.

Q. Will you agree with this, that that is a very extensive cut in that operation—it runs right round the base of the neck from side to side, does it not ?—A. Yes, somewhere round there.

50 Q. And the fact was that the wound had healed by the end of June, hadn't it ?—A. Yes, I think it was the end of June—about three or four months later.

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Q. I suppose you will agree with me that your wife was in a very serious state of health when the operation was performed?—A. A very serious state?

Q. Yes?—A. I don't know whether it was very serious or not. I was simply guided by the doctor.

Q. But Dr. Ritchie had told you, hadn't he?—A. I don't know that he said serious. He said that she could be treated, but he recommended an operation.

Q. Now, let me go back to the matter that I did not finish yesterday—page 90. Do you remember me cross-examining you on a rather unpleasant matter yesterday—the question of your wife washing her hands?—
A. Yes.

Q. And you told me that you remembered that she kept a washer in her room?—A. Yes.

Q. You know that you have not said that before?—A. I don't know whether I did or not.

Q. You know that you have not, don't you? (Objected to.)

Q. Now, this is on page 90, line 30, first trial:

“Q. Was there any steps taken to clean that receptacle that was in use, did you go in and get it to clean it?—A. I don't remember cleaning it. 20

Q. Would you be in a position to hear if she was using water from where you were in the adjoining room?—A. I don't think she could get water without me hearing it. She would have to go to another room to get it, to the bathroom.

Q. You have no wash basin in the bedroom?—A. No, there may have been water in a jug.

Q. But there is no wash basin?—A. No.

Q. Do you think she went back to bed without washing her hands after handling that stuff?—A. I cannot say. 30

Q. You said she went back to her bed straightaway—are you suggesting that she would go back to bed without washing her hands?—A. She would not have the whole of her hands in it.”

Is that right?—A. Yes, I remember some remark like that.

Q. Then a question by His Honor:

“Q. You mean it would not be necessary to wash?—A. It would under ordinary circumstances, but not when a person is so seriously ill then one would not think of such a thing, if they were almost collapsing with fatigue.

Q. Was she almost collapsing with fatigue?—A. She was in a very weak state, naturally. 40

Q. Did you go to see how she was?—A. I was in the room very soon afterwards, about half an hour afterwards.

Q. I thought you said going back to her room she was almost collapsing?—A. She was in a weak state.

Q. And you did not go near her for half an hour?—A. She was not often like that.

Mr. MONAHAN: She was able to carry the receptacle, you did not do that for her, you had been down the street and you came in and saw her carrying the commode pan and it never occurred to you that you should relieve her of what she was carrying and relieve her of it?—A. There would not be time to 50

see the situation before she was back in her room. It was only a few paces.

Q. She was not in such a state of collapse, however, she could flit in like that?—A. She was a woman that while she could go she would.

Q. I thought you said a little while ago that she squeezed this green pus out of it on to her fingers?—A. She may have had a cloth at the bedside.”

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Is that right?—A. Yes, that is right. She did have one. I know now
10 that she did have one.

Q. How do you know now?—A. Well, we have discussed that part of it.

Q. Have you discussed that part of it?—A. My recollection—

Q. Have you discussed that part of it?—A. Yes; my recollection has been refreshed.

Q. By whom?—A. By Mrs. Hocking and myself. We were talking it over. Sometimes my memory becomes more clear than in the witness box. I can remember things sometimes more clearly when I come out.

Q. That question you can remember discussing?—A. Yes.

20 Q. So you remember it now?—A. Yes, I remember that one.

Q. This is the next question :

“ Q. I thought you said it was in the w.c. that she squeezed it, that is what she told you, that it was in the w.c. that she examined it, took it out of the receptacle, pinched it and squeezed it, then this green pus came out, and you say she went back to bed without washing her hands, is that what you say?—A. I cannot say.

30 Q. You say that there is no place to wash in the bedroom and you wash in the bathroom and she went straight back to the bedroom, is that so?—A. That is so, there is water in the bathroom.

Q. Did she hurry back to the bedroom or was she walking slowly as though she was not able to stand?—A. She was naturally hurrying.”

Those are the answers you gave, are they?—A. Yes.

Q. Would this be correct—page 190, four lines from the top—I won't read you exactly what is there, but the effect was, was it not, that Dr. Marsh was able to make a proper examination of your wife's throat?—A. I don't know whether he was or not, I assume that he was able to make an examination.

40 Q. At that stage was there anything to prevent him from having a look at her throat?—A. I assume a doctor would have appliances to permit him to use force if necessary to open her mouth; I don't know but I would assume they had those instruments.

Q. The question was: “ Q. You don't suggest that Dr. Marsh was not able to make a proper examination?” and you said “ No ”?—A. No, I don't.

Q. “ Did you say one word to Dr. Marsh about the story of this tube and so on?—A. No, I did not tell him ”?—A. No.

50 Q. Then page 147 of the third trial, line 20: “ Q. On the 2nd October your wife did not say anything to you about something having broken through the flesh of her throat?—A. She did not tell me anything had broken through the throat.” Is that correct?—A. Yes.

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Q. And that is true?—A. She did not tell me anything had broken through, I don't remember her saying that anything had broken through her throat.

Q. Of course you realise that if a tube that size had come out through the throat it would mean a big hole?—A. I should think so.

Q. And before it came out it would mean a big swelling, wouldn't it, inside?—A. Yes.

Q. Did she ever open her throat and show you the pus in her throat before that?—A. She showed her mouth and her tongue was coated with pus. 10

Q. And she was able to open her mouth and you were able to look in and see the tongue?—A. She would not have to open her mouth very much to show the tongue, the tongue could be extended without opening her mouth very wide.

Q. Was the tongue pushed forward slightly?—A. I don't remember the circumstances, but I saw it there.

Q. You observed your wife's condition in those spasms?—A. Yes.

Q. And may I take this as correct that she frequently went unconscious?—A. Yes.

Q. From what period did the unconsciousness start—— 20

His HONOR: When did it start, when did she have the spasms, and she became unconscious during the spasms?—A. I remember quite clearly on the 1st June 1938, that is one clear incident, there may be others.

Mr. CASSIDY: The first one of course would be most alarming?—A. That was not the first one, she had others.

Q. When was the first time she went unconscious?—A. The first unconsciousness was in hospital but I was not present, I was told.

Q. What date do you suggest it was, the 1st June?—A. Yes.

Q. She only had three in hospital at that time?—A. No, more I think.

Q. The 9th, the 17th and the 1st June I suggest from the records 30 were the spasms?—A. I don't know, because I would not be present, but I was present on 1st June.

Q. From when the first one occurred after that with these spasms she often went unconscious?—A. Yes, I think that would be a fair way to put it.

Q. And she went unconscious on 2nd October?—A. Yes.

Q. After she was unconscious of course she would not feel that she was swallowing something, would she?—A. Not if she was really unconscious.

Q. You have no doubt she was unconscious, and that that uncon- 40 sciousness was there on 2nd October?—A. I think she became unconscious on two or three occasions on that day.

Q. On two or three occasions?—A. Yes.

Q. Do you remember telling His Honour this morning that with a neck in that condition that nobody would notice the swelling there right up to 2nd October?—A. Not the whole of the time, over a period within that time.

Q. Do you remember telling me a little while ago that you saw pus on her tongue?—A. Yes.

Q. Prior to 2nd October?—A. Yes. 50

Q. For how long prior?—A. I don't know how long, she had been complaining for some time, I don't remember how many days or weeks.

Q. But are you clear on that?—A. I remember it was there and she was using antiseptic to gargle the mouth.

Q. The 2nd October?—A. I don't remember the 2nd.

Q. That is the day of this eruption?—A. I don't know whether she used it that day, but she had been using it.

10 Q. But I want to put it to you that you swore before, page 197 of the third trial, I will start at 146, and just listen to this, did you say, at line 50: "Did you also say that prior to this incident in October the woman was quite normal except for this recurring tetany attacks?" And your answer was: "In every other respect except tetany and swelling, yes." "There is not one word there about swelling?" And you said "No." "Do you admit you gave that evidence?—A. Yes." You are following this?—A. Yes.

Q. "And was it correct?—A. Yes, it is correct." "Until after your wife had been in St. Lukes the second time you never noticed anything in the nature of pus in her mouth?—A. No."?—A. I said that, but it was definitely a mistake.

20 Q. But that could not be a mistake?—A. It was a mistake.

Q. It could not be a mistake?—A. It was a mistake.

Q. It was a mistake?—A. Yes.

Q. Listen to the following question—you will have every opportunity to correct it?—A. Yes, I know, but I know now it was a mistake.

Q. How do you know now?—A. Because I know when Dr. Cooper was calling, that was before her admission to St. Lukes the second time, she was scrubbing the pus off her tongue with a toothbrush.

His HONOR: What colour was the pus?—A. It was of a yellowish colour.

30 Mr. CASSIDY: Where was it running from—(Objected to.)

Q. Pus runs, doesn't it?—A. I don't know how to describe it. I call it pus, but that may not be the correct expression. It was a yellow substance, call it a coating on the tongue.

Q. A coating on the tongue?—A. Yes.

Q. Was it exuding from something?—A. It must have been coming from somewhere.

Q. But you looked at it if you saw it scrubbed off?—A. Yes.

40 Q. How did you swear this, that until after your wife had been in St. Lukes the second time, you never noticed anything in the nature of pus in her mouth?—A. I know I swore that, but it was wrong.

Q. "It would have been a very serious matter in your opinion, would it not?—A. I don't know that I am qualified to say." Then it goes on: "Would you regard it as alarming if you knew your wife had pus coming from her mouth?—A. Yes." "And you would regard it as very serious?—A. The whole period was serious"?—A. Of course it was.

Q. Wouldn't you consider pus something that would call for a doctor's attention, pus running or being so thick that it would be scrubbed?—A. The doctor was called.

50 Q. That was on the 2nd October, and the doctor was not called from the pictures until the 6th, was he?—the doctor was not called until the

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night of the 6th ?—A. No, we had been through so many different periods. I explained that many a time she was near death, and the doctor said he could do nothing.

Q. I am just reminded that on page 175 of the second trial, did you say exactly the same thing ? You just told me that that other trial was a mistake, but did you say exactly the same thing at the second ?—A. I don't know what I said at the second. I know it was wrong now.

Q. You would not have repeated the mistake at the second ?—
A. Perhaps the way Mr. Reimer put it to me, it was on record, quite probably it was there, but I don't know how it was put to me, but I know 10
it was definitely wrong.

Q. Mr. Reimer does not repeat to you something before ?—A. I don't know.

Q. I will give you the question he put—"did you see any pus ?"

Mr. SHAND : Put the question before, it would be fairer.

Mr. CASSIDY : "We have been told by your wife about the pus and things for three months before the second. Did you see any pus during that period ?—A. She used to gargle her throat." You suggested just now that Mr. Reimer probably put something to you from another trial. This is the question : "Did you see any pus." That is a simple question ?— 20
A. That is a simple question.

Q. And you answered it : "I did not actually see pus," and there is no mistake about that answer ?—A. No, other than that I may have thought of pus around the scarring, I did not see that until after admission to St. Lukes. There was pus around that after coming out of the hospital.

Q. But you told us it was a toothbrush stroking it off the tongue ?—
A. Yes, it definitely was on the tongue at that stage.

Q. "Did you wife tell you she had pus in her mouth at that period," and your answer was "Yes," and listen to this question : "Did you have a look to see if what she was telling was the truth ?" and did you answer : 30
"I had a look at her throat on several occasions," and the next question was : "And did you see pus ?—A. No, I cannot say I saw pus." Do you still say you have made a mistake ?—A. I still say that I have made a mistake.

Q. Let me go on : "Will you not admit now you have never seen any pus in your wife's mouth at any time," and you said "No." Is that right ?—A. I don't know what I said.

Q. "Do you say you have ?—A. Yes, after she returned from St. Luke's the second time I saw pus" ?—A. Yes, I remember that.

Q. Is that true ?—A. I saw pus there then. 40

Q. Is that right, you are asked if you had ever seen pus, and you say "No," and you are asked : "Do you say you have ?" and you say : "After she returned from St. Luke's the second time I saw pus" ?—
A. I say now I saw it before going to St. Luke's.

Q. Despite the fact that you have sworn on two other occasions that you did not see it ?—A. I do, because I am quite serious about this.

Q. Have you discussed this with your wife ?—A. No, that is my recollection of the visit of Dr. Cooper, that is how I connect it up, because of the visits of Dr. Cooper, that it was there at that time, I remember we told Dr. Cooper what was happening. 50

Q. But Dr. Cooper did not come until after the 11th October ?—A. I know that.

Q. What date did he come about the 23rd October ?—A. I don't know what the date was.

Q. It was a long time after the thing came out of her mouth, wasn't it ?—A. Yes.

Q. How long, a fortnight ?—A. Probably about a fortnight.

Q. That was because, you told us yesterday, Dr. O'Hanlon was away ?—A. Yes, she was having hot fomentations in between those periods.

His HONOR : At the bottom of 175 there is a further reference to that pus business.

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10 Mr. CASSIDY : You remember the question : " Do you say that after she returned from St. Luke's the second time you saw pus ? " And the next question, I did not read it, " Did you see any pus in her mouth before she went to St. Luke's the second time ?—A. A few days prior to going back." " That would be after the tube incident," and you said " Yes." " Did you see any pus in her mouth before the tube incident ?—A. I am not perfectly clear on that."—

His HONOR : That finishes all reference to pus, at that place.

Mr. SHAND : That covers it.

Mr. CASSIDY : You were present when that alleged bursting of the
20 tube through the throat happened ?—A. Yes.

Q. Was your wife unconscious when that happened ?—A. I think she was semi-conscious at that time. She had been unconscious. She became conscious pretty soon after that, or was coming to, I think, at the time. It was a most desperate spasm.

Re-examined.

Mr. SHAND : You were asked about seeing pus in your wife's mouth before this incident in regard to the tube, before the 2nd October 1939 ?
—A. Yes. Re-examina-
tion.

Q. And you have told these gentlemen that you did actually see it
30 before then ?—A. Yes, I saw something on the tongue.

Q. Is this what you swore at the first trial—I suppose your recollection would perhaps be clearer then ?—A. It was clearer then.

Q. Page 67, line 21 : " Prior to this incident—that was about the tube being swallowed, which you have described, and on 2nd October, I want you to tell His Honor and the Jury, did you notice anything about your wife's mouth," and the answer is : " I noticed the breath was rather offensive, and the tongue was rather coated. This had been apparent for some weeks prior to this incident on 2nd October " ?—A. Yes.

Q. Is that correct ?—A. Yes.

40 Q. That is what you said at the very first hearing ?—A. Yes.

Q. You were asked about these prescriptions, and you said that at a later period you paid cash for them ?—A. I did.

Q. I forget how you put it, most of them, or some part of them?—
A. Yes.

His HONOR : At the early stages they were booked, and the later stages they were paid cash for ?—A. Yes.

Mr. SHAND : That is speaking generally ?—A. Yes.

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Mr. SHAND : I read to the Jury the Exhibit, a letter from Mr. Davis, the chemist, which says this—it is a letter to the solicitors for the Defendant up at Quirindi, and the chemists says : “ I refer to your interview of to-day— ”——

Q. These prescriptions were obtained by the Defendant, not by you ?
—A. Not by me.

Mr. SHAND : (Letter read.) “ The powder and mixture, dated 5th October 1939, was for Mr. Hocking as prescribed by myself.” I think that was some indigestion ?—A. It was really a calomal powder, and a mixture.

His HONOR : Something for yourself and not for your wife ?—A. Yes, definitely, I was in a desperate state at that time.

Mr. SHAND : You were asked about this, you were cross-examined on page 81 of the first trial, line 37, and this was put to you : “ You say you do not recollect your wife having anything wrong with her about a fortnight before this incident in October,” and you said : “ She still had this tetany.” The suggestion was that you had not mentioned the throat being swollen ?—A. Yes.

Q. Mr. Cassidy read more, but the suggestion was that you had not mentioned a swollen throat, and in fact that you indicated that was all ?
—A. Yes.

Q. You said in effect that you regarded the tetany as being connected with the swollen throat ?—A. Yes.

Q. Still at the first trial had you already sworn, this is at page 64, line 43—“ You remember something happening in October 1939,” and you said “ Yes.” Prior to that date in October 1939, you say your wife's condition—how was it for some weeks prior to that date, and you said : “ The attacks of tetany were very severe, and sometimes occurring daily.” You were asked : “ How was her face and neck appearing,” and you said : “ They were still swollen and very much inflamed ” ?—A. Yes.

Q. My friend asked you about your wife being down to something like 7 stone or a little bit less. Was this what was put to you in the second trial, page 160, line 5, by Mr. Reimer : “ Between August 1937 and February 1938, you said she had lost weight, and she was then a very frail woman, had gone down to something like 5 stone.” Do you remember being asked that, and you said “ No ” ?—A. Yes, I remember that.

Q. Was there any 5 stone, or any possibility of it ?—A. It is absurd.

Q. This is the matter that I desired to deal with yesterday, at page 73 in the first trial. You were asked about this, about seeing the tube, and about your wife lying back, with her head towards the right side ?—
A. Yes.

Q. And this was put to you as occurring in the first trial, “ Do you say that the open end of this tube was protruding outside the dressing,” and you said “ It was just underneath, you could just see the end underneath the dressing ” ?—A. Yes.

Q. And you were asked “ The dressing did not completely cover it,” and your answer was “ No, it did not, if I am allowed to make an explanation, the patient was lying back naturally ”—and you were stopped then.

Mr. CASSIDY : Who said he was stopped ?

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Mr. SHAND : There is a dash.

Q. Have you any recollection of what you were subsequently going to say ?—A. She was lying back and I was sitting low down on the chair, and I would naturally be able to see underneath the bandages, it would not be necessary to be protruding beyond the bandages.

Q. You were not stating that she was lying back naturally ?—A. No.

Q. And you were going on to say that naturally you would be able to see it ?—A. Yes.

Q. Many events of your private life have been gone into ?—A. Many.

10 Q. Did you ever give Dr. O'Hanlon permission to divulge confidences ?
—A. Never.

Q. You were cross-examined about having said that you did not strike your wife ?—A. Yes.

Q. And you admitted quite freely that that was wrong ?—A. I did. I was very reluctant to have my affairs brought into it, and I was also ashamed of my action.

Q. Was that a hasty action ?—A. Very hasty.

Q. Have you bitterly regretted it ?—A. Very, very bitterly.

Q. Are you living a most happy life with your wife ?—A. Most.

20 Q. And have you always ?—A. Always.

Q. You were asked in that connection, page 72 in the first trial, line 40, it was put to you after you had been asked "How do you account for her making those statements at Easter of this year," and you said, "That was beyond me." That was put to you ?—A. Yes.

Q. But you just previously to that at line 22 had been asked this : "Did you not think that showed rather a disordered state of nerves for your wife to make statements of that sort about you," and did you say, or start to say, "I think a woman who had gone through the sufferings this woman had"—you started to say that ?—A. Yes.

30 Q. What were you going on to say ?—A. I think it would be quite understandable for a woman who has suffered as I don't think any other woman has ever suffered, I can quite understand that she might perhaps say those things.

Q. When you get unwell ?—A. I hope there is never another individual goes through what she has gone through.

Q. Are you prepared to make every allowance for her condition ?—
A. I am.

40 Q. You were asked about a conversation that you had with Dr. Marsh when you told my friend that he told you that there was trouble about the tonsil being affected but not to tell your wife ?—

His HONOR : Are you withdrawing that question ?

Mr. SHAND : I will repeat it, but I want to make sure I am accurate.

Q. What you said is that Dr. Marsh after he had made this examination had told you that he had told Mrs. Hocking that her tonsil was affected, but not to tell her the truth ?—A. Her left tonsil was affected, but not to tell her the truth.

50 Q. My friend put it to you with the greatest of indignation, have you ever said that before ? Now I refer first of all to the second trial at page 190, just below the middle, and you were asked, "What did Dr. Marsh tell you," and did you answer, "He told me he had told

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Mrs. Hocking that the tonsil was infected (or affected, I don't know which), but not to tell her the truth" ?—A. Yes, I made that statement.

Q. And Mr. Reimer, it was, on that occasion appeared to express surprise, he said "Are you serious" ?—A. I was serious.

Q. That was the second trial. Had you also heard it in the first trial directly put to Dr. Marsh in these terms at page 175, line 28, Dr. Marsh was being cross-examined about this conversation, and it was put to him "Did you, Dr. Marsh, tell Mr. Hocking, that his wife's left tonsil was affected, but not to tell her," and Dr. Marsh said "I don't remember saying so."

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His HONOR : Will you go on with the next two questions ?

Mr. SHAND : I will go on with anything, I don't want to pick out scraps. Obviously that should be read. "I don't remember saying so." Then the question to Dr. Marsh "Not to tell her the truth," and Dr. Marsh said "I beg your pardon." Then the question "Did you tell Mr. Hocking that you had told his wife that the left tonsil was affected," and he answered "I did not tell her that." Then the question "Did you tell him that ?—A. I did not tell him." "But did Hocking assent not to tell his wife ?—A. I certainly never said anything of the sort." "Did you have any conversation with Mr. Hocking over it ?—A. I cannot remember if I did. I told him what I said to you, she had slight tonsillitis." "You say you did not tell Mr. Hocking that his wife had an infected tonsil ?—A. I cannot remember that." "Or to the effect that she had an infected tonsil ?—A. Slight tonsillitis." "That is an infected tonsil ?—A. You can call it that if you like. There are mild degrees and severe." "Is it not possible you may have told her husband that she had a slight infection of the tonsil ?—A. If I did tell him I do not recollect it." "You have no recollection ?—A. If he was there at the time I suppose naturally he would speak to me, but I do not remember what I said to him."

Q. Now you were questioned about this occasion when you saw your wife coming from the lavatory ?—A. Yes.

Q. You remember the incident, 5th October ?—A. Yes.

Q. You were asked by my friend whether your wife told you, I forget what period, an hour or an hour and a half, but she told you about that incident ?—A. Yes.

Q. You were questioned on that ?—A. Yes.

Q. By the way, did you see your wife immediately you came home ?—A. Not immediately. I would have gone into the house and been busy with some other affairs. I think I said I went to the butchers, and probably came back and put the beef on to prepare beef tea.

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Q. After you had done that, did your wife tell you that when you saw her ?—A. Yes.

Q. And at the first trial, page 85, line 17, is this what you were asked, "I gather from the way you gave your evidence, that she hurried into the bedroom, and you were occupied for half an hour, before you spoke to your wife, is that right ?—A. Yes." That is in cross-examination ?—A. Yes.

Q. My friend put it to you that in 1940 when you came down to see Dr. Bell, whether it was not the fact that you had come down to demand money ?—A. Yes.

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Q. Do you remember him putting that ?—A. Yes.

- Q. And you said at the time that that needed qualification ?—A. Yes.
 Q. Had you previously seen Dr. O'Hanlon ?—A. Yes.
 Q. What had he said to you ? (Objected to—pressed.)

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His HONOR : With regard to the question asked before lunch, I rule that you cannot ask "What did he say," but I will allow you to ask the question : "Did seeing Dr. O'Hanlon influence you with regard to seeing Dr. Bell ?"

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Mr. SHAND : I still tender the other question, Your Honor, but
 10 I will ask the question in the form you suggest.

Q. Did seeing Dr. O'Hanlon influence you with regard to seeing Dr. Bell ?—A. Yes.

Q. You were asked about telling Dr. Bell or referring him to a scar outside your wife's neck ?—A. Yes.

Q. On the second trial, were you asked this (page 197) :

"Q. Are you quite positive that you said that to Dr. Bell ?—

A. Yes, I am quite positive. I asked him what caused the scar on the inside of the throat."

Q. That is what you said ?—A. Yes.

20 Q. You were asked by my friend about when your wife told you about the tube having been removed, and you said she mentioned that fact, I think the next day. At page 150 of the third trial you were asked—

"Did she say anything to you at the time about the way in which the tube had been removed ?—A. She told me that it hurt rather much, and I agreed that that was said previously."

Is that correct ?—A. Yes.

Q. At the second trial, in the middle of page 163, you were asked :

"Q. Did she say anything to you at the time about the way in which the tube had been removed ?—A. She told me that it hurt rather much.

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Q. What did she tell you on that occasion ?—A. That Dr. Bell had been in and removed the tube, and that Dr. Bell said that it had not been functioning properly and that he had removed the tube.

Q. Anything else ?—A. That is all I can recollect."

Is that right ?—A. Yes.

Q. You were asked about a statement which you made, that the swelling was not noticeable to people who did not know your wife, and you replied to that, that that applied on occasions ?—A. Yes, sometimes.

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Q. At the second trial, did you swear (third question on page 173) :

"Q. Did you ever notice any particular lump in your wife's neck or throat ?—A. I can't say I noticed it. I noticed that the left side was always more swollen."

Is that correct ?—A. Yes.

Q. Then on the third trial (page 146) it was put to you :

"Q. Do you remember him asking you this : 'I think something you said just now rather indicates that the swelling was not of such marked degree that it was certain that persons who did not know your wife might not notice it, and those who did would notice it.' Is that a fair way of putting it ?—A. Yes, that is what

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continued.

I wanted to say. Yes, I think that is how it was put. I think that is right, yes, that is right as read out.

Q. That is your recollection of the condition of your wife's swelling, isn't it?—A. Perhaps I didn't qualify it clearly. There were periods, as I tried to explain.

Q. Do you want to alter that?—A. I will accept it as you have read it.

Q. As being a fair representation of your wife's swelling between March 1938 and October 1939?—A. Not the whole of the period."

Is that what you swore?—A. Yes.

Q. There is a passage at page 180A of the second trial, and in the fifth or sixth question you were asked :

" Q. Did she tell you at any time during the second (October) about something in her mouth?—A. I have an idea she told me she thought there was something."

Is that correct?—A. Yes.

(Mr. Cassidy here objected to the way in which Mr. Shand was selecting passages from the evidence of the previous trials, and discussion ensued, His Honor said that the jury should be informed by Mr. Shand, when asking these questions, at what stage of the proceedings the questions and answers quoted occurred. Mr. Shand assented.)

Mr. SHAND : I will read on. This is the second trial, in cross-examination :

" Q. There have been other occasions when she had had spasms and you have got hold of her and tried to get her out of them and forced a teaspoonful of water into her mouth very similar to that of 2nd October?—A. Similar but not so severe. The woman was black in the face, and I thought she was going to die.

Q. You didn't call Dr. O'Hanlon?—A. No.

Q. And your wife did not tell you one word about having something in her mouth which she thought she swallowed?—A. No.

Q. At that time on the 2nd or 3rd, she didn't say one word about what she experienced during this alleged spasm— (Interrupted).

His Honor : When this swelling incident took place or was alleged to have taken place on 2nd October, did your wife say anything to indicate that such a thing had happened to her at that time?—A. Not at that time.

Q. Did she tell you at any time during the 2nd about something in her mouth?—A. I have an idea she told me that she thought there was something.

Q. Can you tell us any better than that?—A. Do you mean the second day?

Q. No, on the 2nd October?—A. No, not on the 2nd.

Q. Then on the 3rd October, you have an idea she said something?—A. I am not quite clear on the point. So many things happened.

Q. According to you, on the night of the 6th October, you went to see Dr. O'Hanlon, and at that time you had in your

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possession information from your wife about the alleged rubber tube ?—A. Yes.

Q. You knew then, and you know now, that it was suggested that that ulcerated into your wife's mouth on the morning of the 2nd October when she had the spasms you told us about ?—A. In the afternoon."

And then follow the questions asked by Mr. Cassidy on page 180A. That was the evidence you gave ?—A. Yes.

10 Q. You were questioned about the dimensions of the lavatory, and I think you said it was 3 feet across ?—A. That is so.

Q. Something narrower than the jury box (measuring same) ?—A. Yes.

Q. And the length was 4 feet 9 inches ?—A. Yes.

Q. And the door 2 feet 6 inches ?—A. Yes.

Q. So that the door would swing back more than half the lavatory ?—A. Yes.

Q. It would leave from 4 feet 9 inches minus 2 feet 6 inches—would be 2 feet 3 inches ?—A. Yes.

Q. You said the pan came out about 2 feet ?—A. Yes.

20 Q. So that the door, when opened, would be within 3 inches of the pan ?—A. Yes.

His HONOR : The pan or the seat of the pan ? The seat would overlap the pan.

Mr. SHAND : I am taking it from the pan.

Mr. CASSIDY (interpolating) : How much does the seat overlap the pan ?—A. I don't know, but I know the door almost touches it as it swings past.

Mr. SHAND : And the chain was whatever 4 feet 4 inches is from the floor ?—A. Yes.

30 Q. You were asked about massage, and you said massage brought results ?—A. Yes.

Q. At the second trial (p. 177, middle of page) :—

“ Q. The spasm passed off when you massaged her ?—A. It passed off, but whether it was the result of massage, I could not say.

Q. It passed off while you were massaging ?—A. Put it that way, yes.”

That was the evidence ?—A. Yes.

Q. Now you saw this morning some bandages produced by my friend, one with sticking plaster on it ?—A. Yes.

40 Q. At the second trial, did you see some bandages there, and sticking plaster on a model ?—A. Yes.

Q. Was the sticking plaster anything like you saw on the bandages this morning ?—A. Nothing like it in width ; the one on the model was very much wider—it was about that wide. (Indicating.)

His HONOR : Which is the wider ?—A. The one in the model. The second trial the sticking plaster was wider than the one shown this morning.

Q. But how did the bandages compare. The sticking plaster was the only difference, was it ?—A. Yes.

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Q. In other words, you had no fault to find with the bandages—it is only that the sticking plaster on one of the bandages is narrower?—
A. Yes.

Mr. SHAND : You were asked about what your wife told you about when this rubber tube was lost in the lavatory. At the first trial, during cross-examination, at p. 87, line 39, were you asked :—

“ Q. His Honor : Did you ask her where it was ?—A. Yes, I asked her what she had done with it and she said she had dropped it in the pan.

Q. Is that all she told you ?—A. That she had dropped 10
it in the pan, and it went down the sewer.

Q. Did she give you to understand that she had accidentally dropped it, or intentionally dropped it into the pan ?—A. It was accidental, from the fright that someone was coming.”

Is that the evidence you gave ?—A. Yes.

Mr. CASSIDY : Might I have a note made there, that at page 89, following that, the evidence which I read occurs ?

Mr. SHAND : My friend cross-examined about when your wife told you about the tube. At the third trial, at page 147, you were asked in cross-examination, about the 2nd October (line 26) :—

“ Q. Did she tell you on that occasion she thought she had swallowed something ?—A. Not at that time of the happening.

Q. When did she first tell you she thought she had swallowed anything ?—A. I don't know whether it would be later in the day, but not immediately.”

Is that the evidence you gave ?—A. Yes.

Q. (By permission) : Prior to October, when this event happened, what type of food was your wife having ?—A. Light foods, such as beef tea, sago, custards, arrowroot, mincemeat, bovril and such like.

Mr. SHAND : You were cross-examined on some suggestion that 30
your wife was neurotic or hysterical. Before this case came to Court on the first occasion was that suggestion ever made to you by the doctor ?
A. No.

Re-Cross-examined.

Re-cross-
examina-
tion.

Mr. CASSIDY : Really, you never heard any suggestion before this case came to Court that your wife was a neurotic woman ?—A. No.

Q. And that is your oath ?—A. Yes, it is.

Q. In Court is the first occasion you have heard any suggestion that your wife was neurotic ?—A. Yes.

Q. Not from a soul in Quirindi or anywhere ?—A. No. 40

Q. Not from Dr. O'Hanlon ?—A. No, never.

Q. Not from Dr. Flynn ?—A. No.

Q. You were asked a question by Mr. Shand as to seeing the tube, and you said it was not sticking out ?—A. I remember something about that.

Q. “ Did you see more than quarter of an inch in length of it or just the end of it ?—A. I told you half an inch.” That is what you swore at the first trial ?—A. I think that was it.

Q. And you went on to say, in answer to this question : “ On the occasion when you say you saw it, was any dressing operation in progress 50

by any nurse?—A. I was never present during the dressing operation, I retired from the room during those times.” Is that right?—A. I meant when the general dressings were done.

Q. Was that what you swore on the first occasion?—A. Yes.

Q. Was that true?—A. True to an extent, yes. When the general dressings were made the nurses came in and attended to her between the time the general dressings were made.

Q. Was a person interfering with it when you saw it?—A. No, she was not touching it.

10 Q. “I think you said on one occasion while you were there the nurse attended to it and very shortly afterwards it commenced to flow again?—A. That is so, she did not attend to it in my presence, I went out of the room.” Then the next question: “You went out of the room and a short while after you went back and it had started again?—A. Yes.” Is that right?—A. That is what I was trying to tell you just now.

Q. Is that the occasion you saw it?—A. I don’t remember whether that is when I saw it.

20 Q. You may take it that after the words “I was never present during the dressing operation, I retired from the room during those times,” this is the next question that followed that: “And you have told us that you noticed on one day at any rate there was a profuse amount of discharge coming and flowing down underneath the dressing?—A. Yes. Q. I think you said on one occasion that the nurse attended to it and very shortly afterwards it commenced to flow again?—A. That is so, she did not attend to it in my presence, I went out of the room.” That was nothing to do with the tube, was it?—A. That was after the tube.

Q. You saw those pads I showed you this morning?—A. Yes.

Q. Did you just swear that one of those pads has different sticking plaster on it when you saw it in Court?—A. I do.

30 Q. They are the same pads, aren’t they?—A. A similar pad.

Q. And you pledge your oath that the plaster that was on them has been removed and another sticking plaster substituted?—A. I do not say that.

Q. Those same pads, I put it to you, were around the neck of a model that had been brought from the University?—A. I remember some, I don’t know that they were those pads.

Q. The pads that you saw were around the neck of a model?—A. I saw some pads around the neck of a model.

Q. And had sticking plaster on them?—A. Yes.

40 Q. I put it to you that that sticking plaster is exactly the same sticking plaster as was there at the time?—A. No.

Q. You could not make any mistake about that?—A. No.

Q. You did not have a very good look at the sticking plaster this morning?—A. I had sufficient view of it to see how wide it was.

Q. Didn’t Mr. Carson tell you that?—A. No.

Q. Isn’t that what happened, that it is what Mr. Carson said?—A. No, I observed it for myself.

Q. No suggestion from Mr. Carson?—A. No.

50 Q. How much wider was it than this?—A. I would think it was an inch wider than that. I think I took that as the width, viewing it from here I would say (indicating pad with strips of sticking plaster attached with specific reference to the sticking plaster).

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Q. That is nearly the width I showed you with your fingers (indicating plaster) ?—A. That is a different thing to what I observed this morning.

Q. Will you admit that if stretched it is the same ?—A. I would not say the same, I will admit it is similar.

Q. You know that I read the evidence to you that everything was normal except the neck, up to the spasm of the 2nd October ?—A. I remember you reading that.

Q. In reply to Mr. Shand you said that on the 2nd October there was swelling in the neck ?—A. Yes.

Q. Was it bad ?—A. There was some swelling there.

Q. Was it bad swelling in the neck, was it noticeable ?—A. Yes.

Q. Very noticeable ?—A. It was noticeable.

His HONOR : Would people who did not know your wife, would they notice it or only those who did know her ?—A. I think anyone would notice it at this period.

Mr. CASSIDY : Was it inflamed ?—A. Yes, there must have been some inflammation because I remember I was putting on some hot foment.

Q. Were they very hot ?—A. Yes, very hot.

Q. At the first trial did you swear "She had a spasm, I started massaging her again, of course she became unconscious, seemed to be choking, suffering, I think I rubbed her throat again," did you rub the throat ?—A. Yes.

Q. "What was your wife's condition for the rest of the day up to the event which I want you to describe ?—A. Her condition was that she seemed to suffer great pain from the tetany and she went into one of the most severe spasms I have seen and I started massaging again, of course, but she became unconscious and seemed to be choking, suffocating, and I think I rubbed the throat again and she appeared to be going black in the face and with one desperate effort I set her up in bed and endeavoured to force some water between her teeth, I failed the first time, she made another desperate effort, and I could see there was some movement of the face, and I forced about a teaspoonful of water into the mouth when she seemed to swallow and I did not know then . . . "

His HONOR : "Did she make any complaint at all, that is what I want to find out, did she complain about anything the next day or the day after ?—A. She was complaining she felt very sick and as though there was some very hard substance somewhere in her stomach."

Mr. CASSIDY : "At any time that you massaged your wife did you ever feel any lump on the side of your wife's neck or anywhere about that ?—A. No, I did not feel any lump." Mr. Shand read something in reply, and I wish to read something that follows that—"Did you ever see anything that suggested a thing like that in your wife's neck ?—A. No, I did not see anything like that. Q. Did you ever notice a lump the size of that in your wife's neck on either side ?—A. I did not notice a lump. His Honor : What you are describing is really a general swelling your wife had but no specific lump ?—A. No."

(Witness retired.)

No. 11.

EVIDENCE of Elizabeth Fisher.*Sworn, examined, deposed.**In the
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—
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To Mr. SHAND : I am a married woman living at Quirindi.

Q. Are you living at Quirindi with your husband ?—A. No, I was, but my husband is now in the army.

Q. I think you got married when ?—A. 7th May 1938.

Q. Prior to your marriage had you been employed by Mrs. Hocking ?—
A. Yes.

10 Q. Working in the home, were you ?—A. Yes.

Q. Do you remember when Mr. and Mrs. Hocking went down to Sydney in 1938 to go to St. Luke's ?—A. Yes.

Q. Did you stay behind ?—A. Yes, I stayed behind to look after the daughter.

Q. She was not at boarding school then ?—A. No.

Q. Were you there when Mrs. Hocking came back from St. Luke's ?—
A. Yes.

Q. How was she then ?—A. She was no better than when she left to go to St. Luke's.

20 Q. Do you remember she went to Quirindi Hospital after she came back ?—A. I was not at Mrs. Hocking's then, but I knew she went to Quirindi Hospital then.

Q. After she came out of Quirindi Hospital did you go to Mrs. Hocking ?—A. Yes.

Q. Was anyone else there then ?—A. Sister Sly.

Q. How was she when she came back from Quirindi Hospital ?—
A. She was in a very weak condition, very sick, she had to be helped to walk, she could not stand on her own, she had to have Sister Sly on one side and her own sister on the other to get along at all.

30 Q. Did you notice anything about her face and throat ?—A. Her face and throat were swollen.

Q. What were her habits during the daytime ?—A. Some days she would be up and Sister Sly would get her out to the lounge room, other days she would not be out of her bed.

Q. Did she seem to improve at all while Sister Sly was there ?—
A. She improved slightly.

Q. By the time Sister Sly left was her face and neck still swollen ?—
A. Yes, they were still swollen.

40 Q. After that time did it go down or remain the same ?—A. The swelling varied, but there was a certain amount of swelling.

Q. When you say that the swelling varied, could you describe to these gentlemen here and to His Honor how it varied, what was the appearance of her face and neck as regards the swelling ?—A. I could not describe the symptoms like, the eyes would be mere slits on some occasions and then at other times they would be almost normal, with only a slight amount of swelling around them.

Q. Did you stay on much longer with Mrs. Hocking in her home after Sister Sly left the house ?—A. No, when Sister Sly left I left, I went the day after Sister Sly left Mrs. Hocking.

50 Q. Did you go back again to see Mrs. Hocking that year ?—A. Only on one occasion did I go back that year. The following October I called one afternoon.

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Q. On that occasion when you called where was Mrs. Hocking, do you know?—A. Mrs. Hocking was in bed when I called at her home that afternoon.

Q. Did you notice anything about the state of her face and also about her throat?—A. They seemed to me to be very much the same, there was still the swelling, but I do not quite remember to what extent there was swelling.

Q. In 1939 did you visit the house at all?—A. Yes, on one or two occasions and I rang the bell and could not make anyone hear, I could not raise anyone on any of those occasions. 10

Q. And did you learn the reason why afterwards?—A. Yes, I did learn why.

Q. Do you remember when the little girl's school holidays were on?—A. Yes, the May holidays I remember.

Q. Were you there at Mrs. Hocking's place then?—A. I called there during the May holidays when Gloria, the daughter, was home from school.

Q. What was Mrs. Hocking's condition then, do you remember?—A. I did not see Mrs. Hocking move from the lounge chair while I was there. She was sitting in the lounge chair when I went there and while I was there she was in the lounge chair all the time, and she was still there when I left. 20

Q. And what about the swelling, did you notice?—A. Yes, there was still swelling there.

Q. I think when you were there you made an offer to Mrs. Hocking to do anything in the house you could to help her along?—A. Yes, I offered to come there on odd days and give a hand in the house to help her.

Q. By that time you had your own responsibilities, did you not?—A. Yes, I had a young baby then to look after.

Q. Did you, after that, help Mrs. Hocking at all?—A. I came some- 30 times to the home on two days a week and sometimes it would be a fortnight in between visits to her.

Q. And was that continued on over some period?—A. Yes, it was, it may have been two months or it may have been longer.

Q. What about the swelling which you had seen on the face and neck. Was it still there or not?—A. It was still there.

Q. After that period did you actually go to the house to do work for her, after this intermittent visiting of yours?—A. Yes, I went there the day that Mrs. Hocking went to Quirindi Hospital to have an X-ray.

Q. Do you remember how she left the house to have the X-ray?— 40 A. She was helped out of the house by her husband and Dr. O'Hanlon, as far as I can remember.

Q. And do you remember what her condition was like when she came back?—A. She was in bed all the time then, as a matter of fact I washed her to go to the hospital.

Q. And did you give her any treatment?—A. Yes, I put hot fomentations on her throat.

Q. When you say that she was in bed, was that just for one day or what was the time?—A. No, she was in bed there all the time until she left Quirindi to go back to St. Luke's Hospital in Sydney. 50

Q. And did she appear to you to be in a bad condition then, that is when she was leaving to come to Sydney?—A. Yes, she was very ill.

Q. And did you notice anything about her breath at all at that period ?
—A. Yes, she had a very bad breath, in fact it was quite unpleasant to be anywhere near close to where she was.

Q. And did you notice at all how she was speaking ?—A. She had great difficulty in speaking at times, some days she would say hardly anything to me and other days she would seem better and she would seem as though she wanted to talk to me.

Q. Do you remember seeing anything about her hand at any time ?
You had been in association with her prior to this October visit ?—A. I
10 have seen her hands marked with the nails where the nails had cut into her hands when she has had the spasms.

Q. Take the period before October, she was in bed, how used she be dressed, how was her throat ?—A. Mostly she had a dressing gown on and a collar that would be pinned up around the throat.

Q. At other times did she have anything on her throat ?—A. She had a bandage at different times but mostly it was the dressing gown with the collar pinned up around her throat.

Q. What kind of food did Mrs. Hocking have while you were attending to her ?—A. Mostly light food, something that was easy to eat.

20 Q. What type of things can you recollect ?—A. No, I cannot recollect other than just before she came back to St. Luke's Hospital in Sydney, then she was absolutely on arrowroot and bovril, I don't remember her eating anything else then.

Mr. SHAND : Do you remember after this occasion in October, after she had the X-ray and you came into the house—do you remember being asked to have a look at inside her mouth ?—A. Yes.

Q. And what was the condition of the mouth ?—A. Well, the tongue was coated with pus and very swollen—her mouth was very swollen.

30 Q. Could you see right to the back of her throat ?—A. No, you could not see right to the back of her throat ; it would really be the back of the mouth. The tongue was too swollen and the mouth was too swollen to see too far.

Q. Do you remember when she came back from St. Luke's ?—A. Yes.

Q. You saw her throat then—in 1939 ?—A. When she came back from St. Luke's the second time ?

Q. Yes ?—A. Well, the swelling was gone, but I did not see the inside of her throat then.

Q. You mentioned arrowroot—how was the arrowroot made ?—
A. Just with boiling water.

40 His HONOR : Is that the usual way to make it ; was there anything unusual about making it that way ?—A. No. If anyone does not like milk in it, well, they just have it made with water.

Cross-examined.

Mr. CASSIDY : It was not made on milk, was it ?—A. No.

Q. Have you got this all right about this lady's condition ?—A. Well, as far as my memory goes I have.

Q. And might your memory be a little bit out ?—A. Well, there may be some things that I have not remembered, but what I have remembered I think you will find pretty correct.

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Q. You have refreshed your memory a bit, haven't you?—A. Well, not necessarily, like I have that part as much as I could, but when you have your own responsibilities you forget about other people's—

Q. But you have had a couple of days down here I suppose?—
A. Yes.

Q. And you have given some thought to what you are going to say?—

A. Well, it is not much use giving thought to what you are going to say. You don't know what you are going to be asked.

Q. You like to know what you are going to be asked?—A. You have to remember back. 10

Q. You like to know what you are going to be asked?—A. Well, we all would.

Q. Did you ask Mrs. Hocking what things they were asking about during that period?—A. No.

Q. Not one word to her?—A. No, I haven't asked Mrs. Hocking any questions.

Q. Not one question?—A. No.

Q. Would it be right to say this, that you looked into her throat just within a short time after this thing is alleged to come out, and you could see no hole there?—A. Yes. 20

Q. That was right?—A. Yes.

Q. How long after the 2nd October—within a week?—A. Yes, it would be within a week.

Q. And you could see right to the back of the tongue?—A. No, to the back of the mouth—it would not be right to the back of the tongue.

Q. Right to the back—(Objected to.)

His HONOR : Do you want to say anything more?—A. It would not be to the back of the throat—it would not be to the back of the tongue. It would be to the back of the mouth. It would not be to the back of the throat or to the back of the tongue, it would be to the back of the 30 roof of the mouth.

Mr. CASSIDY : Well, what is the back of the roof of the mouth?—
A. Well, to the back of the mouth.

Q. Did you ever say you could see to the back of the tongue?—A. I don't remember.

Q. Would it be right if you did say so?—A. No, it would not be right.

Q. You did look to see if you could see a hole?—A. Yes, I looked to see what I could see in the throat.

Q. You had been told that a tube with a piece of wire had come out 40 of it?—A. I had been told that a tube with something that looked like a piece of wire had come out.

Q. Were you told that it looked like a piece of wire or that it was wire?—A. As far as I can remember "It looked like a piece of wire."

Q. Are you sure those were the words?—A. As far as I can remember now.

Q. You have not changed your evidence there a little bit?—A. Not that I know of.

Q. Is this how you described it before : "She told you about the piece of wire sticking out," and you said "Yes." Is that what you swore 50 before?—A. I don't know.

Q. I will read it to you—page 82—“ And she described to you the bit she saw. She told you it was about 2 inches long ? ”—A. One and a half to two.

His HONOR : And your answer was : “ She told me it was between an inch and a half and 2 inches.”

Mr. CASSIDY : Is that what she told you ?—A. Yes, 1½ inches.

Q. “ She told you about the piece of wire sticking out.” Your answer was “ Yes.” Is that right ?—A. This is quite a while back—yes.

10 Q. This is a year earlier than now. “ And you had a look in her mouth ” ?—A. Yes.

Q. “ And you could see down to the back of her tongue,” and you said “ Yes.” Is that correct ?—A. Well, it would not be to the back of the tongue.

Q. Well, that is what you swore then, wasn't it ?—A. All right— (Objected to.)

20 Q. “ And you could see the back wall of her throat. You could look in.” Your answer was : “ Yes, but her mouth was very swollen and I could not exactly see right down her throat.” “ But you could see to the back of the tongue,” and your answer was “ Yes.” (Objected to.) You know that the tonsil is just about level with there (indicating), do you not —alongside the tongue ?—A. Yes.

Q. And you were looking—if a thing 2 inches long came out, you were looking for a hole—

His HONOR : She said 1½ inches or 2 inches.

Mr. CASSIDY : You were looking for a hole, were you not ?—A. Yes.

Q. You saw this lady leave for the hospital on Saturday the 7th ?— A. Yes, to go to Quirindi Hospital.

30 Q. Can you remember how long it was before the 7th October since you had been up to her home ?—A. No, I cannot remember.

Q. Was it a fortnight or longer ?—A. No ; it was longer than that.

Q. Three months ?—A. It may have been three months. It may have been a month, I cannot remember. I had not seen her for quite a while.

Q. And you had not been called in to give assistance to the house on the week of the 7th ?—A. No.

Q. And you had offered at any time to give assistance. Is that so ?—A. Yes.

Q. And were you casually visiting there on the Saturday ?—A. No, Mr. Hocking came for me.

40 Q. That was the morning she was going to the hospital ?—A. That was the morning she was going for the X-ray.

Q. I suppose if the eyes were nearly slits that would be something you would not forget would it ? If the eyes were nearly slits you would not forget that, would you ?—A. No.

Q. Did that remain for any length of time ?—A. Well, I only saw Mrs. Hocking on occasions—on occasional days. I was not there all the time.

Q. Did you see it on more than one occasion ?—

His HONOR : The eyes in this condition ?

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Mr. CASSIDY : Yes.

The WITNESS : Well, I have seen Mrs. Hocking's eyes swollen to a great extent on more than one occasion. I cannot remember just the occasion.

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Mr. CASSIDY : But " Eyes in slits " ?—A. Well, they would not be actual slits. If anyone's eyes are swollen to a great extent—if the eyelids have swollen to a great extent, you cannot see too much of the eye.

Q. Is that what they were ?—A. Well, the eyelids were swollen up.

Q. Would that be May 1939, for example ? You told us that you were there in May 1939 when the daughter was home ?—A. No, they were 10
not badly swollen that day.

Q. Well, what time ? While Sister Sly was there ?—A. I may have seen them while Sister Sly was there.

Q. Can you remember—

His HONOR : What is your recollection ?—A. I cannot remember exactly when, but I remember seeing Mrs. Hocking's eyelids swollen so that there was not much of her eyes that could be seen.

Mr. CASSIDY : You have never said before that her eyes were like slits, have you—never at any time have you given that description ?—

A. No, I don't remember giving that actual description. 20

Q. You have never mentioned the eyelids being swollen, have you ?—

A. Well, I have mentioned the face being swollen, and when the face is swollen the eyes are naturally swollen.

Q. Is the position this, that there used to be ups and downs in the face—swelling at times and away at other times ?—A. Well, the swelling was more pronounced at times ; at other times there was not so much pronounced swelling.

Q. Would this be an exaggerated statement—from the time she came back from Sydney until she went to St. Luke's, it was always swollen.

His HONOR : After the operation, you are talking about ?—A. I 30
never remember seeing Mrs. Hocking all that time when there was not a certain amount of swelling in her face.

Mr. CASSIDY : But it never got any better or never got any worse ?—A. Well, it varied, as I said before. Sometimes there was more swelling than at others.

Q. Do you remember on the last occasion—your evidence was very short, was it not, extremely short ?—A. Yes, I was not in the witness box long at all last time.

Q. And you did not tell us a lot of these things that you told us to-day, did you ?—A. I was not asked. (Objected to ; pressed.) 40

Q. You were asked about different times you saw her, weren't you ?—A. Yes.

Q. On the second trial you were in the box for a long long time, weren't you ?—A. Yes, at Quirindi, I was.

Q. And you were given then a de bene esse examination. That is an examination, not in Court, but up at Quirindi ?—A. Mr. Carson put me through my examination in half an hour, and the cross-examination took three hours.

Q. And in the whole of the time you never mentioned the slits in the eyes?—A. I don't remember.

Q. You don't remember?—A. I don't remember mentioning it before.

Q. When Sister Sly was there this neck healed up, didn't it?—A. I had nothing to do with Mrs. Hocking's neck when Sister Sly was there.

Q. But you were living there?—A. No, I was only there from 9 o'clock till 2.

Q. But didn't you take an interest in Mrs. Hocking—how she was getting on?—A. Yes, I took an interest—but——

10 Q. And didn't you notice that her neck healed up entirely?—A. I did not notice entirely, but I was not speaking to Mrs. Hocking very much at that time. I would go and say good morning to her and——

Q. But didn't you notice at any time in conversation with her that her neck had healed?—A. No, I never noticed.

Q. You saw her go to hospital, you told me, and you knew she had an X-ray?—A. Yes.

Q. Did you see her neck then?—A. The outside of her neck?

Q. Yes?—A. Yes, I was putting hot fomentations on her.

20 His HONOR: Before she went to the hospital?—A. No, not before she went for the X-ray. After she came back.

Mr. CASSIDY: Was it very swollen—that day that she went to the hospital it was very swollen, was it?—A. Yes, it was swollen.

Q. Right out (indicating)?—A. I would not say out as far as you put your hands.

Q. But what part was very swollen?—A. Around the throat.

Q. Which part?

His HONOR: From here to here (indicating)?—A. Well, from what I can remember the throat all seemed to be very swollen on that day.

30 A. Yes. Q. It was obvious to anybody whether they knew her or not?—

Q. Any stranger seeing her would notice anything?—A. Yes, any stranger would notice that it was swollen.

Mr. CASSIDY: Did she have nothing round it?—A. I cannot remember whether she had anything round it or not when she left to go to the hospital.

Q. Did you see it without anything round it then?—A. Yes, because I washed Mrs. Hocking to get her ready to go.

Q. Sister Sly, I suppose, saw a good deal of Mrs. Hocking?—A. Yes.

Q. A good deal more than you did?—A. Certainly, yes.

40 Q. In May 1939, when the daughter was home, did you stay at the house for some time?—A. That was after—no, I was only there on odd occasions.

Q. And do you remember a Mr. Nancarrow coming along there once?—A. No, I don't remember. I was never there of a night or when Mr. Hocking was at home—any time that Mr. Hocking was at home.

Q. Was it early May that the daughter came home, or late May?—A. I don't know. It was in the school holidays—the May holidays.

Q. And did you notice Mrs. Hocking writing letters?—A. I never saw Mrs. Hocking writing letters.

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Q. Not at any time during that May period?—A. I never ever saw her writing letters because I was only there a few hours a day. Mrs. Hocking could easily have written letters when I was not there.

Q. Now I want to come to the evidence you gave last time to your Counsel. When you were there in 1939, did she get a lot letter?—A. When the daughter was home? She seemed to improve slightly, but as far as getting a lot better was concerned—well, she did not.

Q. Did she have any spasms?—A. I never saw her in a spasm.

His HONOR: Was that the period you were there for two months or longer—was it?—A. That was like on occasions—I was not there 10 all the time. Sometimes perhaps I would be there two days a week, and sometimes I would not be there at all during the week. I had my own home to look after.

Mr. CASSIDY: Would you see her once a week the whole period?—A. No.

His HONOR: What period are you referring to?

Mr. CASSIDY: We will start in May 1938. That was after she came out of Quirindi Hospital—June 9th 1938. Sister Sly was there. You saw her there for how long—over a month?—A. A month or six weeks.

Q. And when did you next see her?—A. Not until the following 20 October.

Q. And when after that?—A. In May.

Q. And when after that?—A. Well, after that I went there to help her on occasional days.

Q. In between May and October?—A. Yes.

Q. What day would that be—the washing day?—A. There was no set day, just whenever it suited me to go, I could go.

Q. So at no time you saw any spasm?—A. No.

His HONOR: Apparently in some period in 1939 didn't you tell us you were there odd days for two months?—A. That was from the 30 May holidays. Oh, I was there—

Q. That would be May, June, July, and it might run into August?—A. I could not say just how long it was. It was a day here and a day there, and I did not keep any record of it.

Mr. CASSIDY: But during that time at least we can take it that you did not see any spasm?—A. No, I did not see any spasm.

Q. Or at any time?—A. Or at any time.

Q. You know Mrs. Hannaford, do you?—A. The Nurse Clark that was?

Q. Yes?—A. Yes. 40

Q. You know also two people that are now at Gunnedah—their names are Nancarrow?—A. Yes.

Q. You have seen them about the Court—Mr. and Mrs. Nancarrow?—A. Yes.

Q. You have been in the company of Mrs. Hocking also?—A. Yes.

Q. At no time with Mrs. Hocking have you discussed what you were going to be asked?—A. No, I have not discussed with Mrs. Hocking what I—

Q. Nor have you discussed with her anything about her eyes coming up to slits?—A. No. 50

Q. Do you say you saw pus in this lady's mouth?—A. Well, what looked to be pus.

Q. But you know what pus is, don't you? Was it running?—A. No, it was not running, but the tongue was all coated with what looked to be pus.

Q. Did you ever see a tooth brush being used on it?—A. No, I never saw a tooth brush being used on it.

Q. By the way, was it a white pus?—A. Well, it was a creamy, yellowy looking thing—it is hard to describe.

10 Q. Well, you looked at it, didn't you?—

His HONOR: What colour was it?—A. Well, it was creamy—it was a creamy whitish colour.

Mr. CASSIDY: Did it seem to be coming out of anything?—

His HONOR: Like pepsodent tooth paste, or something like that?—A. Well, more yellowy looking than that.

Mr. CASSIDY: Did it seem to be coming out of anything on the tongue?—A. Well, I did not look in for any time. I just glanced in to see if I could see the hole in the throat.

20 Q. So the first time that you saw any pus in the house was after this hole in the throat incident, was it?—A. Yes.

Q. How long after?—A. Well, it would be during the week after—it would be after Mrs. Hocking went to hospital for the X-ray examination.

Q. You knew Mrs. Hocking, I suppose, before 1938?—A. I went there to work in 1937.

Q. And she was in hospital some time in 1937?—A. She had been in Quirindi Hospital before I went there to work.

Q. And you came along to her home to assist after she came out of Quirindi Hospital?—A. Yes.

30 A. Yes. Q. And was that the first time that you ever went to work there?—

Q. And did you remain there from when she came out of hospital until she went to Sydney?—A. Well, she was out of hospital before I went there then, but I remained there then until she came home from St. Luke's Hospital on the first occasion.

Q. So your first services with her were just some short time after she came out of Quirindi Hospital in 1937?—A. Shortly before Xmas.

Q. And at that time she was regularly getting purchases from the chemist, was she not?—A. She may have been. I don't know.

40 A. She was not what you would say very ill. Q. And when she went away from the town she was very, very ill?—

Q. She was down to about 7 stone, wasn't she?—A. Well, she may have been down in weight a little, but I would not say she was down much.

Q. A little—down about 2 stone to what she is now, wasn't it?—A. Not from what I can remember of Mrs. Hocking, she was not down that thin when she came to St. Luke's Hospital.

Q. But you knew that she came down to see a specialist, didn't you?—A. Yes.

50 Q. And I suppose you became fairly friendly with her working in the home, didn't you?—A. Well, not intimately. We were friendly.

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Q. But you attended to her when she was ill. You looked after her ?
—A. No, I did not have anything to do with her in that way before she came down to see a doctor. I did the housework and the cooking.

Q. Did you notice her neck in 1937 before she came to Sydney ?—
A. Well, there was nothing unusual about her neck.

Q. Did she look as well as she does now ?—A. Well, not quite as well, but there would not be a great lot of difference.

Q. And neither her nor her husband worried about her condition ?
—A. Well, I would not say that.

Q. Well, were they ?—A. Well, she had been in Quirindi Hospital— 10
she consulted Dr. O'Hanlon and she was ordered away to see a specialist.
Well, naturally—

Q. Weren't they worried about her condition ?—A. Well, naturally, when anyone has to go and see a specialist they must worry.

Q. Do you know that that was the second specialist she had seen ?
—A. No.

Re-examined.

Re-examin-
ation,

Mr. SHAND : You were asked about seeing down to the back of the tongue. This is the part I asked my friend to read, on page 83, line 4 :
“ And you could see the wall of the throat behind the tongue,” and your 20
answer was : “ It would not be exactly that, it would be just the back of the mouth.” Is that what you swore ?—A. Yes. It would not be exactly the wall of the throat because the mouth and throat were too swollen.

Q. And you were asked—line 9—“ And when you looked in you could not see any hole,” and your answer was : “ No, I could not see anything but swelling and pus.” That would be correct ?—A. Yes.

Q. You were asked about not having described Mrs. Hocking's eyes being slits before. You were cross-examined a very long time up at Quirindi ?—A. Yes.

Q. That was just prior to your having your child ?—A. Yes, about 30
a month.

Q. And you were not in very good health then, I suppose ?—A. No.

Q. You were asked about her appearance in the face, and you said :
“ The usual swelling and puffiness of the face.” You were asked what part of the face, and you answered : “ All her face was swollen eyes were very puffy, and swelling from face as far as I could see down her throat ” ?—A. Yes.

Q. You indicated the left side of her neck down to the collar of her coat. Is that correct ?—A. Yes.

Q. Now, my friend says that the evidence you gave last time was very 40
short. The evidence you gave up at Quirindi was not very short ?—A. No. I think I broke down twice during cross-examination. I had to go out.

Q. Now you were asked whether you noticed that the neck was healed—the wound in the neck. Were you ever in a position to see the wound in the neck ?—A. No, as far as that went, just walking into a room and if Mrs. Hocking was in bed, well, I never looked at her that closely to see if the wound was healed up.

Q. And when you saw her in the day time did she have anything around her neck ?—A. Usually she had something, I think, up round her neck. 50

Q. You were asked if you saw her brushing pus off her tongue with a tooth brush. Have you seen her with a tooth brush?—A. I have seen her with a tooth brush.

Q. And has she told you something?—A. Yes.

(Witness retired.)

Mr. Shand stated that he and Mr. Cassidy had agreed that the evidence of Gwendoline Vera Hannaford given at the last trial should be taken as evidence in this trial, as she was ill. His Honor agreed to this course.

10

Mr. Carson then read the evidence in chief, and Mr. Reimer the cross-examination, as follows:—

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No. 12.

EVIDENCE of Gwendoline Vera Hannaford.

Sworn, examined, deposed.

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tion,

To Mr. HARDWICK: I am a married woman living at Quirindi. My name was formerly Clarke. I qualified as a trained nurse at Quirindi Hospital. I started my training on 29th August 1935, and ended my training on 10th October 1940. I was trained at Quirindi all the time. I know Mrs. Hocking. While I was in Quirindi Hospital as a nurse
20 being trained I saw her there as a patient. I remember her coming into the hospital in May 1938. She was in No. 3 private rooms. I was a junior nurse on night duty then.

Q. Do you remember seeing Mrs. Hocking on any occasion during this period she was there?—A. Yes, twice; once just for a few minutes, and then once for a couple of days.

Q. What was the first thing you noticed and saw about her at that time?—A. The first time I walked into the room—it was one night, I just do not know what time—Mrs. Hocking was in a spasm then. I know it was one of the spasms—you know, it was written up in the book.
30 I know Mrs. Hocking was unconscious at the time. She did not know what was going on.

Her face was all twitching and her arms could not keep still, I remember Mr. Hocking being on one side of the bed and holding her hand, and someone else—I think it was the sister—on the other side of the bed. I know her face was very swollen then all up around this part—the face and all around here.

Q. What does “here” mean?—A. All round the throat and face and right up here to the eyes. That was the first time I saw her. The other occasion must have been the last few days of Mrs. Hocking’s stay in the
40 hospital. I was ill myself and I was placed on a stretcher just outside Mrs. Hocking’s room. Of course I was in a position to see Mrs. Hocking quite a lot. If I sat up in bed and Mrs. Hocking was in her bed we were not very far apart. We could talk to each other. Mrs. Hocking would ring the bell for me if I wanted anything. I did not see her then in any tetany spasms. She was very pleasant. Her face and neck were just the same.

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tion.

Later on in the same year I saw Mrs. Hocking again in Quirindi Hospital. I just do not know any dates or months. I know she was in hospital again and I was nursing her on that occasion. I was not there when she was admitted. I could not tell any difference in her appearance then. Her face was still just the same as before. Her face and neck were all the same; there was no difference to me.

Cross-examined.

Mr. REIMER: Have you a very clear recollection of Mrs. Hocking?
—A. Yes.

Q. Have you seen her about the town of Quirindi since?—A. I think once or twice I saw her just to speak to.

Q. Would it be correct that when she first came into Quirindi Hospital in 1938 she had a slight swelling in the centre of her neck?—A. Mrs. Hocking's neck down here was bandaged up. I was just in the room a couple of minutes the first time. I could not say anything about this down here because it was bandaged up and I could not see here.

Q. So all you saw of her on the first occasion was when she was in a spasm?—A. Yes.

Q. And you were only there for a minute or two?—A. Yes.

Q. Did she actually move her arms about on that occasion?—A. Yes.

Q. In what way?—A. I cannot exactly describe it.

Q. Did you have to control her arms?—A. I did not have anything to do with her whatsoever.

Q. Did somebody else have to control her arms, hold her down?—A. Yes.

Q. Can you describe in some way how you suggest she was moving her arms?—A. I don't know that I could. I don't know sufficient about it.

Q. Show us what she did on that occasion?—A. I could not say, because I was just there for a couple of minutes.

Q. But you have given evidence on oath here that Mrs. Hocking was—I think you used the words “could not keep her arms still,” “was throwing her arms about,” or words to that effect; is that correct?—A. Yes.

Q. Will you just demonstrate to us now what you mean by that?—A. Just something like this. (Demonstrating.)

Q. That is to say, with the arms more or less straight in front of her?—A. Just somehow like this. (Demonstrating.)

His HONOR: Does that mean with the arms forward more or less parallel and twisting them?—A. I just cannot say for sure about her arms.

Q. Will you tell us how you would describe it? You remember you showed the jury how the arms went?—A. Yes.

Q. How would you describe that; were they in front of you, extended?—A. I know Mr. Hocking had hold of this hand.

Q. You are now being asked to describe what it was you did then. You put both arms in front of you?—A. Yes, like this (demonstrating).

Q. Then you twisted them backwards and forwards?—A. I just know that her arms were moving and I just cannot definitely describe that at all.

30

40

Mr. REIMER : Is it correct that the elbows were straight out in your description just now did you have your elbows straight out ?—

A. I cannot say anything about it.

Q. What you did just now was that you had your elbows straight out ?

His HONOR : Will you show us again what you saw her do ?—

A. I suppose she had her arms out here—she could not have them anywhere else. Her arms would be out like this somehow (demonstrating).

Mr. REIMER : That is, straight in front of her ?—A. Yes.

10 Q. You turned your wrists around ; did you see Mrs. Hocking do that ?—A. I said that I cannot remember what Mrs. Hocking did with her arms. I know that they were moving.

Q. Did you just now turn your wrists around to describe what you saw Mrs. Hocking do ?—A. I am not responsible for what I did about her arms, because I am not sure about that.

Q. You have come along to tell us what you saw happen in hospital.

His HONOR : You have a picture of it in your mind ?—A. Yes.

20 Q. Mr. Reimer wants you to imagine you are an artist for the moment and describe the picture ?—A. But if I cannot remember about her arms it is not much use me trying to explain, I don't suppose. It is a very vague picture as far as I am concerned about her arms.

Mr. REIMER : Do you remember any other part of her body that was involved in the spasm ?—A. I know her face was twitching all up here.

Q. Do you mean up in the cheeks ?—A. All this part (indicating).

Q. " This part " is all up her cheeks ?—A. Yes.

Q. Where else ?—A. And her mouth.

Q. On both sides ?—A. Yes, as far as I could see.

Q. And you say she appeared to be unconscious ?—A. Yes, she was unconscious then.

30 Q. Did you notice anything with regard to the condition of her face and neck on that occasion, as to whether it was swollen or otherwise ?—A. I know it was swollen. I had seen Mrs. Hocking before a couple of times, and I know that it was swollen.

Q. Can you tell us the extent of the swelling ?—A. I would say it was very swollen.

Q. On both sides ?—A. Yes.

Q. And do you know how far the swelling went either up or down her face ?—A. I know it was right up to her eyes.

Q. On both sides ?—A. Yes.

Q. Involving both cheeks ?—A. Yes.

40 Q. What other part ?—A. Right down to here (indicating).

Q. On both sides of her jawbone ?—A. Yes.

His HONOR : You point to underneath the jawbone ?—A. Yes.

Mr. REIMER : Anywhere else ?—A. I cannot remember any other part. This part (indicating) was bandaged up ; I could not see that.

Q. The next occasion you were there when you saw Mrs. Hocking you were in bed ?—A. Yes.

Q. And you were some little distance away from Mrs. Hocking ?—A. Yes, not very far, though.

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Q. Was her condition then the same as you had seen it on the first occasion so far as her face was concerned?—A. Yes, so far as her face was concerned.

Q. And was Mrs. Hocking then quite bright and cheerful?—A. Yes.

Q. And she conversed with you without making any complaints whatever?—A. Yes.

Q. She was quite a happy patient?—A. Yes.

Q. When you saw her again was in September 1939 (should be 1938), when she was brought into the hospital, and you saw her face looked exactly the same?—A. Yes. 10

Q. When you saw her in September 1939 (should be 1938), did you see her in any kind of a spasm on that occasion?—A. No, I did not.

Q. Did you nurse her at all?—A. I did.

Q. She was in bed?—A. Yes.

Q. She did not have any kind of bandage or anything around her neck on that occasion?—A. Not that I can remember.

Q. You could see her neck and throat and so on on that occasion?—A. I daresay so.

Q. Have you any recollection of having seen her throat?—A. No.

Q. Did you notice anything abnormal about her neck on that occasion? 20
—A. No, not down here (indicating).

Q. Did you notice anything abnormal about her neck on that occasion?
—A. No.

(Witness retired.)

(Further hearing adjourned until Monday, 6th December 1943.)

No. 13.
D. A.
Welsh,
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examina-
tion.

No. 13.

EVIDENCE of David Arthur Welsh.

Sworn, examined, deposed.

To Mr. SHAND: I am a Doctor of Medicine of Edinburgh University and a Fellow of the Royal College of Physicians, Edinburgh. From the very early days I have taken a lively interest in the thyroid and those afflictions which centre around that gland. 30

Q. You did a special thesis on graduation?—A. On graduation for M.D., yes, on the parathyroids.

For that I did very considerable research. The research I did received mention in subsequent text-books, even as late as books on recent advances in pathology. I have kept up my interest in that particular subject and my reading on the subject.

Q. You practised for two years as a physician?—A. I did physician's work for two years before I was invited to—(Objected to). 40

Q. When did you come to Australia—what year?—A. May I correct the last question and answer?

Q. The question was when did you come to Australia?—A. I did not say I practised as a physician. I said I had done physician's work for two years.

His HONOR: What is incorrect?—A. "Practise" would mean that I was in private practice, but it was not so.

To Mr. SHAND: I came to Australia in March 1902. I took up the position of Professor of Pathology in the University here. That

included bacteriology up to the year 1930. In that year bacteriology was made a separate chair and afterwards from 1930 to 1936 I was Professor of Pathology without bacteriology. I was retired against my will in 1936.

Pathology, generally speaking, is the science of disease. It has to deal with disease in all its aspects beginning with its causes, its progress and its results. It is the most interesting subject in the medical profession. It is the foundation of all medicine and all surgery.

I took a practical interest in the study of the thyroid gland, in the disease. In addition to the "parathyroids" I made a special study of the thyroid gland. I had a large number of specimens submitted to me. I got an eminent surgeon in Sydney, Sir Alexander McCormick, to send me all the thyroids that he removed over a certain period. I have taken a particular interest in the pathology of the living patient. My interest has always been the pathology of the living patient rather than in the pathology of the dead body.

I have heard practically the whole of the evidence given at the various hearings. I missed a good deal of the second hearing. I was not well. I had to go to a case in the country. Apart from that I have heard most of the evidence. I have read most of it also.

I have seen and considered the hospital records of St. Luke's and Quirindi. I read those very carefully. I have heard Dr. O'Hanlon's evidence of the history of Mrs. Hocking.

Q. Would you explain the nature of the thyroid and the parathyroid glands and their situation?—A. The thyroid gland is situated in the neck and consists of two lobes each the size of a hen's egg cut longitudinally down and joined across the front of the windpipe by a narrow band known as isthmus of thyroid tissue. The thyroid closely envelopes the windpipe. It goes back a little distance into the neck. The parathyroid glands are very small bodies each about the size of a split pea, usually four in number and placed usually behind and either above or below the thyroid gland. It is possible to remove the greater portion of the thyroid gland. It is possible to remove the greater portion of the thyroid gland without interfering with the parathyroid glands. There is some enlargement of the thyroid itself.

Q. What does it bring about when you get enlargement of the thyroid?—A. In some cases there is very little disturbance. It is not the mere enlargement of the thyroid that produces disturbance, it is the quality. When you get a toxic thyroid it is enlarged. It shows great activity, but it may not be very greatly enlarged yet strongly toxic.

The chief effect is on the heart. I saw in the records in Mrs. Hocking's case that the heart beat was increased to 150 a minute, instead of the usual average of 72.

Q. What about the parathyroid glands, what is their function?—A. They have a very remarkable function. They regulate the calcium content of the blood and they do that in a very remarkable way by taking calcium salts from the bony skeleton. Popularly one thinks of it as a fixed and rigid structure, but as a matter of fact it is not so. It is like a large bank of calcium from which the parathyroids may draw when calcium is required to maintain the proper level in the blood.

Q. How is that calcium replaced in the bony skeleton?—A. Just as you have to replace money when you take it out of the bank, it has to be put back. It is done by another mechanism. It is done by the calcium

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taken in by the food. Even when they are abundantly present in the food they would not be taken into the blood in sufficient amount except under the influence of a vitamin known as vitamin D. This vitamin D is supplied from various sources, normally by the action of sunlight on the skin. It changes the chemical substance in the skin which is recognised as a pro-vitamin. It changes it into vitamin D. That vitamin D created under the influence of sunlight promotes the absorption of calcium from the food into the blood and also helps to restore to the bony skeleton.

It has been my experience in countries where you do not get much sunshine you get "bony troubles." In Scotland where I was attached to a children's hospital a great many suffered from bone diseases, rickets particularly, owing to the comparative absence of sunlight in Scotland. You get vitamin D in various other substances which can be taken, the fish liver oils. Mrs. Hocking was given halivol. That is one of the fish liver oils, and it contains vitamin D in abundance. The normal calcium content of the blood is 10 mm. of calcium to every 100 cc. of blood. 10

Q. When do you expect to get signs of tetany, when the calcium content drops to what level?—A. That would vary in individuals, but when it drops below 10 there is then latent tetany, but if much below 10 it is open and declared tetany. 20

Q. When you get two positions, either destruction of the parathyroid glands or some condition which prevents them functioning properly, what is drawn about?—A. If the parathyroid glands are reduced in number or if their function is interfered with in any way by interference with the blood supply or if they are destroyed by suppuration or inflammation, then they cannot take enough calcium from the bony skeleton and put it into the blood. The calcium content of the blood then falls and tetany results.

Q. A low calcium content brings about tetany. How does it bring it about?—A. That is another interesting and complicated mechanism. A sufficient supply of calcium in the blood is necessary for the proper functioning of the motor nerves and muscles that they supply and when the calcium content falls too low the muscles become contracted. Certain groups become contracted. 30

Q. We have heard it described as spasms?—A. Spasms and cramps and contractions. It gives an effect of rigidity.

Inflammation situated about the thyroid would—it could—undoubtedly affect functioning of the parathyroid glands, especially inflammation of the posterior part of the thyroid area.

Q. Does it interfere with the blood stream which goes to the parathyroids?—A. It must interfere more with the structure of the parathyroids themselves, I think, and destroy the constituents of the parathyroids and so interferes with function. 40

Q. I want to take you to the time when Plaintiff was in Quirindi Hospital in 1937. You have studied the records?—A. Yes, I remember that.

Q. What do you say as to her condition then and its progress?—A. It was before she came to St. Luke's.

Q. Yes?—A. These symptoms from which she suffered were in the light of the subsequent history undoubtedly premonitory symptoms of toxic thyroid, preliminary symptoms of toxic thyroid and it was then her heart began to show this alarming increase in its rate of action. 50

Q. The first tentative diagnosis was neurasthenia?—A. Yes, I think it was a legitimate diagnosis on the part of the doctor—(Objected to).

(Admission sheets, Quirindi Hospital, October 1937, tendered : marked Exhibit " N. ")

Q. You have seen the admission sheet before, with a diagnosis of neurasthenia (?)?—A. I am almost sure I saw it somewhere in relation to the hospital records.

Q. You have said it was—what term did you use?—A. Well, it was a reasonable provisional diagnosis on the part of the doctor at that stage.

10 I noticed development in the hospital records. I forget now whether it was in the hospital records or Dr. O'Hanlon's evidence.

Q. We know later on that the Plaintiff saw Dr. Ritchie and Dr. Bell, and there was a diagnosis of thyrotoxicosis?—A. I have heard that.

I would expect the previous condition tentatively diagnosed as neurasthenia, undoubtedly to be the forerunner of thyrotoxicosis.

Q. Do persons suffering from thyrotoxicosis have symptoms of neurasthenia?—A. Neurasthenia is a very general term and one would say generally, yes, they do.

20 When the operation is performed the proper operation I would expect those signs to clear up, not immediately but gradually. It is difficult to say within what period I would say within weeks or months.

I have carefully considered the records at St. Luke's Hospital. I have a copy of the hospital records myself. (Witness allowed to look at record.)

Q. We see on the 15th March there was the operation?—A. 7.30 a.m., yes.

Q. Four days later, 20th March, what is reported? There is reported " a thick purulent discharge " ?—A. Yes, on the morning of the 20th ?

30 Q. Yes, the 20th. It all depends the way you count the 16th. What does it indicate?—A. It indicates to me that in spite of Dr. Bell's care—(Objected to.)

Q. Don't comment on care or anything else. What does it indicate to you?—A. It indicates to me that something went wrong at the operation and that—(Objected to.) (Argued.)

(His Honor to Jury: Gentlemen, Mr. Shand says although the professor said something went wrong at the operation there is no blame being attached by the Plaintiff to the Defendant in respect of that, or anything else. The negligence charged is leaving a tube in the throat, of the description the Plaintiff gave.)

40 (Particulars tendered: read to Jury: marked Exhibit " O. ")

Q. What internal condition did this thick purulent discharge indicate?—A. What does the presence of the discharge indicate?

Q. Yes?—A. That some pus producing bacteria had been introduced into the wound.

Q. Would it indicate a heavy or a light infection?—A. It must have been heavy to produce the thick purulent discharge by the 20th May.

His HONOR: Is there any significance in the word " introduced " ? Does it mean put in purposely?—A. No, accidentally.

50 Mr. SHAND: The temperature varied: 18th March—101 and 102; 19th—101.4; the night of the 19th it varied—97 and went up to 103.8,

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and the 20th it was 103.2. What does that tell you medically?—A. The initial rises of temperature on the days between the 15th and the 20th might have been due just to the release of more toxic substances from the thyroid, from the raw surfaces of the thyroid which were left, but in the light of the thick purulent discharge which appeared on the 20th they would also indicate the development of suppuration in the wound.

Q. On the 20th there is recorded "complained of cramp in fingers and same sponged and rubbed with effect." That is the day report?—

A. It could be the very early development of tetany.

On the 21st the temperature is described as "swinging." It went 10 very high on the morning of the 20th and then fell very low. That is a bad sign, and then afterwards it is swinging.

Q. Would that swinging in temperature indicate inflammation?—

A. It indicates a somewhat serious infection, more than inflammation.

Q. Assume that a piece of foreign body, a piece of rubber had been left in the wound, what effect would it have?—A. Its effect would be to perpetuate and continue the inflammation and suppurative process.

Q. Assume that type of foreign body in there, how long would the inflammation be likely to last?—A. It would continue off and on as long as the foreign body was there.

Q. And assume a piece of rubber tube in there -- (Objected to.)

(Mr. Cassidy contends that the witness must be shown the rubber tube claimed to be a fair representation. Mr. Shand indicates that he wishes to ask what infection is likely to arise from a foreign body.)

Q. I will first of all put this question to you: Assume there is in the wound a piece of rubber 2 inches long. Colour does not matter. It is soft as if it has been in liquid. Protruding from the top are two little things which lock like wire and which flick back when you put your finger on them—

His HONOR: Which fly straight back.

Mr. SHAND: And a swab—you heard the Plaintiff give evidence?—

A. Yes, I did. (Objected to.)

Mr. SHAND: Assume a piece of soft rubber tube about 2 inches long, you need not trouble about the colour, and had the appearances of having been in water for some time, cut off straight at one end and torn at the other and on the side there was a straight cut in which could be seen what appeared to be a swab and wire protruding from the torn end of the tube and whatever was in the end flicked back when it was pulled down. (Objected to—question allowed as put with the exception of "and what was in the end flicked back when it was pulled down")?—A. I remember the description of the object, but what was the question?

Q. What I was about to ask you was, assuming that such an object in the thyroid cavity, could the wound heal over?—A. Yes, the wound could heal over after an interval of time.

Q. And if it healed over, what might happen to that object while the inflammation was going on?—A. A lot of things could happen before it would heal over. I mean this is an infected wound with thick purulent discharge and the object you mentioned embodied in this discharge.

Q. Assume that the wound healed over, what could happen to the 50 tube? I mean, could it go to the tonsil?—A. Yes, but a great many things would happen before it got there.

Q. Would you describe what processes would come about before that happened?—A. The object you mentioned could be carried in the pus that had accumulated within the thyroid capsule, wherever that pus happened to travel. That pus could travel anywhere in the neck.

Q. Anywhere in the neck?—A. Yes, anywhere in the neck.

Q. Is there any particular likelihood whether it would travel up or down?—A. In my experience of the infections of the neck the infection usually spreads upwards.

10 Q. Has gravity got anything to do with it?—A. Very little influence in the neck.

Q. And how does the infection spread?—A. It usually spreads between the various structures in the neck, each little structure, each muscle and the thyroid gland itself and a group of big important vessels in the neck are enclosed in what is called a fibrous capsule, and the inflammation and suppuration usually spreads by separating these structures along their fibrous capsules, opening up the spaces between them, what we call the facial planes. One has to imagine each little structure like a muscle or gland enclosed in a band or sheath of that fibrous tissue and the tendency of the suppuration is to spread up between these, and of course to carry
20 any foreign body with it.

Q. Would there be anything to prevent it going to the tonsil?—A. No, nothing serious to prevent it going to the tonsil.

Q. And would it necessarily on its way injure any blood vessel or muscle?—A. Not necessarily seriously injure any blood vessel or muscle. It might have taken a different course and seriously injured the blood vessel, but there is no history in this case that it did so.

Q. You would not suggest a thing with thick wires in it like that would ever travel?—A. I have always protested against a thing like that being used in thyroidectomy.

30 Q. You would not suggest that a thing with wires like that could travel?—A. No.

(Rubber tube with wires projecting tendered and marked Exhibit P.)

Q. About what distance from the upper lobe of the thyroid would it be to the tonsil on the same side?—A. When the thyroid is not enlarged the top of one lateral lobe would be about halfway up the Adam's apple on one side and the lower edge of the tonsil is about level with the lower angle of the jaw. It would vary with each neck. It would vary from 1 to 2 inches, I would say.

40 Q. That would be the limits?—A. Yes, it would be less if the thyroid were enlarged.

Q. You said that body could travel. Would your opinion be the same or different whether the tube had been inserted there in the left lobe or the right lobe?—A. With a thick purulent discharge in the thyroid capsule the tube could get from the right side to the left side without difficulty.

Q. And if it were on the left side there would be less difficulty?—
A. Yes.

Mr. CASSIDY: That is a tube of that size, you say (indicating
50 Exhibit P)?—A. Yes.

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Mr. SHAND : As an example of the travelling of pus, there is an abscess known as the psoas abscess ? (Objected to.)

Mr. CASSIDY : (On voir dire) With the psoas abscess the conditions which deal with that are entirely different to the conditions you would find here ?—A. The bacteria that causes the psoas abscess is different to the bacteria that causes this abscess.

Q. The psoas abscess is tubercular, isn't it ?—A. Yes.

Q. And it is a cold abscess ?—A. That makes no difference to the travelling of pus.

Q. No difference, that is what you say ?—A. No difference to the 10 travelling of pus.

Mr. SHAND : What happened with regard to the psoas abscess ?—
A. The psoas abscess is an abscess in the lower part of the spinal column which may rupture and then the contents of that abscess may travel down the leg and appear behind the knee. I have seen a case in which that happened showing that once an abscess has ruptured the pus may travel a very long distance.

Q. And would that travel down the fascia ?—A. Between the fascial planes, between the muscles of the legs—along the fascial planes I should say, between the muscles of the legs. 20

Q. Assume you had this foreign body that has been described in the thyroid, would you get continued inflammation about the parathyroids, suppuration ?—A. Yes.

Q. And would you expect the function of the parathyroids to be disorganised ?—A. Yes.

Q. Would you expect tetany to result ?—A. Yes.

Q. You have heard the Plaintiff's evidence of the symptoms that she suffered from ?—A. Yes.

Q. You have read the records of the Quirindi Hospital of 1938 ?—
A. Yes. 30

Q. What do you say about those indications, those symptoms ?—
A. As to whether it was or was not tetany ?

Q. Yes ?—A. In my mind it was undoubtedly tetany.

Q. Parathyroid tetany ?—A. Yes, in the light of it developing after this operation and subsequent to the infection of the wound it was undoubtedly parathyroid tetany.

Q. We have heard that the wound did not heal up for some three months, is that an unusual state of affairs ?—A. No, most unusual for a thyroidectomy.

Q. How long would you expect the wound to take to heal ?—A. An 40 infected or an uninfected wound ?

Q. An ordinary thyroidectomy ? (Objected to : disallowed.)

Q. How long would you expect the wound to heal in any infected thyroidectomy that was not infected as a result of any foreign body being in the wound ? (Objected to.)

Mr. CASSIDY : (On voir dire) You have never performed an operation for thyroidectomy in your life, have you, except on a cat ?—A. Yes, and on some other animals.

Q. That is 40 years ago, isn't it ?—A. No, not 40 years ago.

Q. Thirty-six years ago ?—A. No, I did some after I came to Sydney. 50

Q. That was 1902, wasn't it ?—A. It was later than 1902.

His HONOR : When did you last perform an operation on a cat or some other animal ?—A. Before 1914.

Mr. SHAND : I will withdraw the question. It will be answered by the other doctors, I think.

Q. You made an examination of the Plaintiff's left tonsil yourself, did you not ?—A. Yes, I think I have made three examinations altogether at different periods.

Q. When you made your first two examinations, you did not use any measuring instrument, did you ?—A. No.

10 Q. It was a visual examination ?—A. Yes.

Q. And some two years ago you made an examination ?—A. Yes, during the first trial.

Q. And what did you see as to the left tonsil ?—A. There was a distinct shallow oval depression about half an inch in diameter and about one-eighth inch deep in the left tonsil and a distinct scar at the foot of that depression.

Q. That was without thrusting anything into it ?—A. Yes, the tonsil was very ragged, strips of tonsillar tissue were running from the tonsil to the back of the throat.

20 Q. What did that indicate ?—A. It indicated some kind of volcanic eruption had taken place from the tonsil. It was consistent with an abscess having burst out of that tonsil.

Q. Was the other tonsil anything like that ?—A. No.

Q. I think you also had a visual examination at the next trial ?—A. Yes, the same appearances were there, only less prominent.

His HONOR : When was that ?—A. August 1942.

Mr. SHAND : In neither of those cases did you endeavour to see how deep it was by measurement ?—A. No.

30 Q. Recently have you seen a probe put into the tonsil ?—A. Yes, I saw one last week.

Q. That was with Dr. Thompson, was it ?—A. Yes.

Q. How far did it go in ?—A. Right through the substance of the tonsil on to the back of the throat.

Q. What was the depth of the tonsil approximately ?—A. At that part of the tonsil it was less than half an inch. It had recovered very materially from what I had seen before.

Q. Nevertheless there was this hole right through ?—A. Yes, right through the substance of the tonsil.

40 Q. Could such a hole be caused by what is in medical terminology called a crypt ?—A. This was much larger than a crypt. It was an opening in the tonsil.

Q. And what about the scarring that you saw ?—A. The scarring was not so noticeable.

Q. But when you first saw it you saw the scar ?—A. Yes, in December 1941 the scar was most obvious.

Q. Was that consistent with merely a crypt ?—A. No.

Q. You say that is a ruptured abscess ?—A. Yes, it means a laceration of the tonsil.

50 Q. I think you said you saw some strands of tissue ?—A. Yes, on the first examination they were very marked.

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Q. And what did that indicate?—A. It indicated that at some time, to me, there had been great disorganisation of the structure of the tonsil.

Q. Was that area that has been described by you sufficient to permit the exit of a tube such as I have described to you?—A. Yes, easily.

Q. I have asked your opinion, and you said that there was at a stage infection in the wound indicated by the thick purulent discharge. The next stage you get was the spreading of the suppuration?—A. Yes, the first stage was an infected suppurating wound, and the next stage was spreading suppuration in the neck. The condition began as an infected suppurating wound in the region of the thyroid. Then it was continued, on the evidence, as a spreading suppuration in the neck. At neither of those stages was it a true abscess. An abscess is a different form of suppuration. 10

Q. Then was there another stage?—A. On the evidence it ended as an abscess of the left tonsil.

Q. Have you noticed in the records, I think particularly the Quirindi Hospital record, that the Plaintiff was given calcium injections?—A. Yes.

Q. And have you noted the report as to her reaction to those injections?—A. Yes.

Q. What did you note?—A. That her spasms improved under the injections. 20

Q. And is that indicative of true tetany?—A. That is to my mind certain proof that it was true tetany due to calcium deficiency in the blood.

Q. Then you have noted that paroidin was administered to her?—A. Yes.

Q. What do you say as to that?—A. That is to my mind proof that the tetany was continued as a true parathyroid tetany. It undoubtedly began as a true parathyroid tetany and it was continued as such.

Q. And I think you have dealt with the condition of Mrs. Hocking in what you term three stages. Would you indicate from 1937 what the hospital records and the admissions indicate to you?—A. From the hospital records and the clinical history generally I think it is pretty obvious that Mrs. Hocking came through three separate stages of poisoning as it were. The first was due to the influence of a toxic thyroid which largely ceased soon after the operation on the 15th March. 30

Q. That is when Dr. Bell performed the operation?—A. Yes, when Dr. Bell operated; the second began when the parathyroids ceased their full function and that began whilst she was in St. Luke's the first time in 1938, indicated by the tingling and twitching of the fingers, and that was continued all through the period when injections of calcium or administration of paroidin relieved her spasms. And that was an infection, as explained before, of the motor nerves and muscles. Then there was the third phase of poisoning beginning when the thick purulent discharge accumulated in the wound and the wound became infected and it was continued while that suppuration and inflammation continued in her neck and that would lead to a very serious illness indeed on her part. 40

Q. And would the effects of the illness be likely to last for some time?—A. Yes, certainly as long as the suppuration and inflammation lasted.

Q. And would that have some effect after that?—A. Yes, that would have an effect after that. 50

Q. Assuming that the foreign body such as has been described, that is the tube, had been in the neck and had burst out, when the abscess burst,

would you expect some fairly quick signs of bettering of her condition ?—
A. Yes, that could often happen in a long-continued illness of her nature terminating in an abscess. When the final abscess bursts that there is almost an immediate relief from symptoms.

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Q. You heard the Plaintiff say, and she was cross-examined on what she described as pus coming out of this tube when she squeezed, when she had taken it from the chamber and she described that pus at the first trial as green or greenish-looking, and at the second trial as greenish yellow. Would you tell these gentlemen what your view of the matter is ? Could
10 you get greenish pus in the tube with one end closed ?—A. Yes, you could get pus retained in the closed end of the tube, and that pus might have a greenish hue for two possible reasons ; one because there is a bacillus of suppuration which gives rise to what we call green pus and that might then be present in the tonsillar abscess ; and the second reason is that there may have been some green staining by bile as it passed through the intestines.

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Q. I think you had practical experience in what happens to rubber when it is subject to heat like hot water ?—A. In the course of our work in bacteriology we use a great deal of rubber, and there is no doubt that
20 rubber perishes under the influence of heat and under the influence of fatty and oily substances such as would be present in pus.

Q. And assuming a rubber tube had been present in an infected area for some 18 months and in the bowels for some three days, would you expect it to swell ?—A. Yes, I would expect it to become soft and swollen.

Q. When you were dealing with vitamin D, you referred to cod liver oil as being one of the substances that contained it. What about milk, does that contain calcium ?—A. Yes, it contains a little vitamin D, but it is chiefly valuable on account of its calcium content, and because the
30 calcium in the milk is in a form very readily taken up in the body.

Q. So is that a good food for a person who is suffering from tetany ?—A. Yes, the best food, probably.

Q. You have heard the Plaintiff give evidence and you have seen the hospital records indicating the type of symptoms she had, spasms and various other indications ?—A. Yes.

Q. Unconsciousness was one ?—A. Yes.

Q. The movement of the legs upwards from a fixed position. Are those matters indicative of true tetany ? (Objected to.)

Mr. CASSIDY (on voir dire) : You have never seen tetany in your
40 life, have you ? Have you ever seen adult tetany in your life ?—A. I have never seen a gross tetany.

Q. You have sworn before that you have never seen tetany in your life ?—A. I agreed, but I said I probably had, but I did not remember the occasion, but never a gross form like this described by Mrs. Hocking.

Mr. SHAND : You have kept up your reading through the years ?—
A. Yes.

Q. Are those indications I mentioned indicative of tetany ?—A. Yes, undoubtedly, and some of the indications were such as I have never heard of before.

50 Q. But you can point to them in the text books ?—A. Yes.

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Mr. CASSIDY : You mentioned in the early part of your evidence that you were away for a portion of a trial because you went to a case. You don't suggest it was a medical case ?—A. It was a case in the Workers' Compensation Court.

Q. That meant that you were going to give evidence ?—A. Yes.

Q. Because you have not had a practice for over 30 years ?—A. I have had a very extensive consulting practice.

Q. Since when ?—A. Since I came to Sydney.

Q. That, doctor, was on specimens at the university as a pathologist ? 10
—A. Specimens removed by surgeons who wanted my advice on subsequent treatment.

Q. As a pathologist, your advice as a pathologist ?—A. Yes, as a pathologist taking it in its wide sense.

Q. And you said to Mr. Shand this morning, did you not, that in December 1941, at the first trial, you could obviously see a scar in this lady's throat ?—A. In the left tonsil, yes.

Q. You went a little further than that, and also said, did you not, that you could see it was much more obvious than it was in August 1942 ?—
A. Yes. 20

Q. And you could see that it would be a place where a tube could come through ?—A. Yes.

Q. You gave no evidence to that effect, did you, at the first trial ?—
A. I was not asked.

Q. Dr. Poate, I suppose you will agree, is a very distinguished surgeon ?
—A. Very distinguished surgeon.

Q. He is the gentleman, before you gave evidence, whose paper you read on what he had to say about the operation of thyroidectomy ?
—A. Yes, I read a very interesting article by him on thyroidectomy.

Q. Because you did not know much about it ?—A. No. 30

Q. You read that the night before and the morning before you gave your evidence ?—A. Yes, I read that because I was interested in thyroidectomy.

Q. Not for the case, didn't you read it for the case—that is a simple question, why don't you answer me ?—A. The answer is yes, undoubtedly.

Mr. CASSIDY : That same gentleman, Dr. Poate, has also had a very large experience in foreign bodies, has he not. (Objected to) ?—A. I don't know.

Q. You don't know ?—A. I don't know.

Q. I suppose you recognise that Dr. Ben Edge is also another 40 distinguished surgeon ?—A. Very distinguished.

Q. And you know of your own knowledge that he had ten years as assistant to Sir Alexander McCormack ? (Objected to—pressed—admitted).

Q. You know also, as part of his experience, that he had ten years with Sir Alexander McCormack ?—A. I know very definitely that he was ten years with me—as my assistant.

Q. We will get away from the theoretical part, and come down to the everyday job of operating ?—A. It is not theoretical ; it is very practical.

Q. You know, do you not, that he was for ten years with Sir Alexander 50 McCormack, as assistant surgeon ?—A. I know he was with Sir Alexander McCormack, I don't know how long.

Q. When you were giving evidence in the first trial you said that the usual tube used was a minimum of 4 inches to 6 inches?—A. I did not say minimum.

Q. The lowest figure you gave was 4 inches long, wasn't it?—A. I made a mistake there, because I was speaking of the large thyroids which I had seen in Edinburgh, which were sometimes as large as an emu's egg.

His HONOR : Are thyroids bigger in Scotland than here?—A. Yes—the Shetlands, for instance.

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10 Mr. CASSIDY : You can get them just as big on the Snowy River, can't you?—A. Yes—but——(Objected to).

Q. On that occasion you swore that the tube used was from 4 inches to 6 inches?—A. No. I said that a tube about that length would be necessary, to drain a thyroid in thyroidectomy, but I was speaking, as I said, of the larger thyroid.

Q. You know the evidence from the hospital records in this case, don't you?—A. Yes, but I answered that question too quickly.

Q. But you did not correct it in the way you do now, do you?—A. No. I did not have an opportunity of correcting it at the first trial.

20 Q. But you were cross-examined about it, weren't you, by Mr. Monahan?—A. Did I not explain to Mr. Monahan——

Q. No. You may take it that you did not?—A. Well, I should have.

Q. You know, of course, now, that the tube that is normal standard practice is the 2-inch tube, don't you?—A. No, I don't know that.

Q. What length have you seen used?

His HONOR : On thyroidectomes in Australia?

Mr. CASSIDY : Yes.

The WITNESS : It depends on the size of the thyroid.

His HONOR : But what ones have you seen in Australia?—A. Two or three inches long.

30 Mr. CASSIDY : And you knew that at the first trial—2 or 3 inches long from what you had seen in Australia?—A. Yes, that is quite true.

Q. Of course you realise in this case that this lady states that there was 2 inches came out?—A. Yes, but when I said 4 to 6 inches, I did not have any intention of misleading the Court.

Q. But you did not correct it?—A. No, I don't think I did.

Q. You were so unacquainted with this thyroidectomy that you said that the tube of 4 to 6 inches long had a lot of little holes along it?—A. Yes.

40 Q. But in standard practice they do not have a lot of little holes in them, do they? You know now that they don't?—A. No, I don't know that they don't.

Q. Do you know that they don't have holes along them?

His HONOR : Do you know, one way or the other?—A. No, I don't know one way or the other. I think I said that I did not know the technical details of a surgical operation.

Mr. CASSIDY : You don't know the details of technical surgery, and you haven't enquired. Is that what you tell us?—A. No. I see no occasion to enquire.

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Q. Let me proceed to the next position. You realise that that tube of 2 inches long which has been sworn to here is put inside the neck—inside the throat. Is that right? Inside the thyroid capsule?—A. Yes, I understand so.

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Q. And you know this much now, do you not, that it goes in at the bottom of the lobe of the thyroid? If you don't know, say so?—A. No, I don't know. I don't know these details.

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Q. So it might, for all you know, go in at the top of the lobe?—
A. I don't profess to be an authority on the technique of a surgical operation for thyroidectomy. 10

Q. But if you are going to give an opinion to the jury of how that tube can travel, is it necessary to know where that tube goes in?—A. No, it is necessary to know where it was.

Q. Do you know where it was?—A. It would be over at the left or the right side of the thyroid.

Q. At the top of the thyroid, or the bottom?—A. At the back.

Q. At the top or the bottom?—A. It would make no difference.

Q. It would make a difference of 2½ to 3 inches of area that the tube had to carry?—A. It would make no difference if the thyroid capsule were full of pus as it was on that occasion. 20

Q. You know, do you not, that the difficulty with the tube is to stop it from falling out, that is the surgeon's difficulty?—A. To stop it from slipping out.

Q. And you know for that reason—A. Or from slipping in. That is an equal difficulty.

Q. And you know for that reason that the surgeon puts a thin horse-hair stitch, just one single stitch, into the outside of the neck?—A. Yes, I have seen a surgeon do that.

Q. Then you know, do you not, that the next thing that a surgeon does is to pass—you know that the next thing is that a safety pin is put inside the tube like that (indicating)?—A. I have seen that happen. 30

Q. And the tube is necessary to drain discharge into the soft pads that are around the neck? They take the discharge?—A. Yes.

Q. I want to take you to this position—I suppose you are a practical man as well as a theoretical man?—A. Very practical as regards pathology, and its relation to medicine and surgery, yes.

Q. Now I want you to assume that this tube is in the patient's neck. Exhibit 1.

His HONOR : That is Exhibit " P."

Mr. CASSIDY : Or we will take it that I want you to assume that a tube 2 inches long is in the Plaintiff's throat. When the thyroid is removed, you get your sides falling in—it goes like a bladder?—A. Yes. 40

Q. It does not remain like an open space, does it?—A. No.

Q. And there is nothing to hold the tube inside?—A. I don't know.

Q. Well, what do you think you could have to hold your tube in?—
A. It is hard to ask me about these tubes. I don't know the technique of these things.

Q. Can you suggest anything that would hold the tube in?—A. It is not for me to suggest anything.

His HONOR : I suppose your knowledge of anatomy would tell you? 50

Mr. CASSIDY : I suppose you have some knowledge of anatomy as a professor ?—A. Yes, but that seems to me to have nothing to do with it.

Q. You have some knowledge of anatomy, I presume ?—A. Yes.

Q. And what can you suggest there is that can hold the tube in ?—

A. It is not for me to express an opinion.

Q. You can suggest nothing, can you ?—A. I don't suggest anything.

Q. And you cannot suggest any muscles or anything there that can hold that tube in ?—A. I am not competent to discuss that.

10 Q. But you are competent to say that, aren't you ?—A. No, I am not competent.

Q. Is that a genuine answer to my question ?—A. I am not competent to answer any questions regarding the tube.

Q. But you know the neck ; you know the thyroid ; you know the vessels there, and you know the anatomy of it. There is nothing there that could hold the tube in there ?—A. That is outside my problem altogether.

Q. I put it to you that, as a practical man, from what you have known—you have seen plenty of dead bodies, haven't you ?—A. Plenty of dead bodies.

20 Q. And you have dissected them, I suppose, in your early days ?—A. In my later days.

Q. And in your later days ?—A. Yes.

Q. There is nothing that could hold that tube in ?—A. I neither assent nor dissent to that.

Q. Can't you assent to that proposition I put to you ?—A. No.

Q. Let me come to the next matter. You heard it described that Dr. Bell pulled that tube once and it did not come out ; can you imagine anything that will stop it ?—A. I am not in a position to answer that question.

30 Q. You heard it said that he pulled it twice, and it would not come out ? Can you imagine that as being possible ?—A. I am not competent to answer questions in regard to the tube.

Q. You heard it then sworn that he put his hand on that lady's head, and pulled hard. Can you suggest anything that would be holding it so hard that it would break the tube ?—A. I have nothing to add to what I have already said.

Q. So you will answer this, will you not, that in your opinion this matter is an impossibility ?—A. No, I cannot answer that. I can neither agree nor disagree.

40 His HONOR : I don't know whether I misunderstood you. Do you tell the Court that the difficulty is to stop the tube slipping in or out ?—A. Yes.

Q. That is the difficulty that the surgeon has ?—A. Yes ; that is what I imagine the difficulty would be.

Q. So they have a little horsehair stitch to keep it from slipping in or out ?—A. Yes.

50 Mr. CASSIDY : You may take it that the Plaintiff has sworn in this case and that the hospital records also establish it, that the doctor snipped that stitch before he removed the tube ? I ask you now can you give any suggestion as to what would stop it from coming out ?—A. It is not my place to make any suggestion.

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Q. It is not your place?—A. It is not within my province.

Q. Let me come to the next thing. If the doctor is pulling the tube that way (indicating), pulling on three occasions—if he pulls it and he has pulled it twice, and it has not broken, the tendency will be for the tube to come towards him. Can you answer that?—A. No, I can't. I must decline to answer any questions regarding the tube.

His HONOR : Both from a practical and theoretical point of view?
—A. Yes, Your Honor, because I don't know what actually happens in the thyroidectomy operation.

Mr. CASSIDY : I want to go a little bit further with you. For a 10
rubber tube to break and for the portion to come away in a person's hand, there would have to be considerable resistance at the other end, would there not? (Objected to in that form—pressed : admitted.)

Q. What is the answer?—A. That would depend on the condition of the tube at the other end—whether there was a big incision in the tube, or whether it was perished.

Q. That would mean that the doctor who performed that operation would have allowed the perished tube to go in?—A. Yes, it would mean that.

Q. I suppose you recognise Dr. Bell also is a surgeon of long practice 20
and of great experience? (Objected to : pressed : admitted.)

Q. What is your answer?—A. I hold Dr. Bell in high regard as a surgeon.

Q. And that would mean that the doctor allowed a perished tube to go into that wound?—A. He might not know that it was perished.

Q. Would he not look at it? (Objected to.)

Q. You have seen the hospital records, haven't you?—A. Yes, I have read the hospital records.

Q. You have studied them, have you not?—A. Yes, I have read them 30
carefully.

Q. You accept them, do you not?—A. I do. (Objected to.)

Q. You have formed part of your evidence on them, have you not?
You have used them as part of the evidence you give in this case?

His HONOR : Part of the material.

Mr. CASSIDY : Yes, part of the material.

The WITNESS : Yes, I have.

Mr. CASSIDY : And you see there that on the 17th March that tube was removed?

Mr. SHAND : An entry to that effect.

His HONOR : An entry to that effect. 40

Mr. CASSIDY : You see that on 17th March, that tube was removed?
(Objected to.)

His HONOR : An entry to that effect from which apparently he bases some of his conclusions.

Mr. CASSIDY : And put in by Mr. Shand.

His HONOR : It does not matter who it was put in by. (Pressed by Mr. Cassidy.)

Mr. CASSIDY: You see there the entry "17th March, tube removed" ?—A. Yes, I saw it there.

Q. And you accepted that as part of the basis of your calculations, did you not ?—A. I accept it that the person who wrote the entry understood the tube was removed.

Q. And you understood it that it was a correct entry ?—A. The person who wrote it believed it to be a correct entry.

Q. You took, on the 20th, the temperature ?—going up to 103.8— you took that as correct, didn't you ?—A. Yes ; that is a definite record.

10 Q. Well, isn't this a definite record. Isn't that a definite record too ? —A. If a portion of tube were accidentally broken off, that would not appear on the record because the person who wrote the record would not know.

Q. That would mean that the doctor missed it, and that the nurses missed it, wouldn't it ?—A. Yes.

Q. That would mean then that the nurses made an entry knowing it was wrong ?—A. No, not knowing it was wrong. They would not know it.

20 Q. But we are told by the Plaintiff that a piece of tube half an inch long was put, in the presence of a sister, on the tray ?—A. Well, that is a matter of evidence on which I am not called upon to decide.

Q. But the inference from it is—she, the sister, and the doctor, saw it ?—A. Yes ; that is a question of fact that I am not called upon to decide.

Q. But the position is clear, that the doctor must have known it ? —and the nurses must have known it ?—A. I don't think that follows.

Q. You don't think that follows ?—A. No.

30 Q. Really ? It was a tube that was perished—you say that is the way it could happen ? That it was a perished tube and it broke, and that the doctor or nurse would not notice it. Isn't it obvious that they must have, if it occurred ?—A. It is not for me to say.

Q. Isn't it obvious that they would have noticed it if it had occurred ? —A. That is for the Jury ; not for me.

Q. You have seen the way in which the sketch was drawn—kind of serrated edges where it broke. You have seen the sketch, have you not ? —A. Yes.

His HONOR : Do you wish to see it again ?—A. Thank you. (Sketch handed to Witness.)

40 Mr. CASSIDY : That suggests a breaking right round the circumference of the tube, doesn't it ?—A. Yes, that sketch suggests a breaking right round.

Q. That suggests that it was a break right round the circumference, does it not ?—A. The drawing certainly suggests it.

Q. If 2 inches are left behind, you will realise that the piece that was left in the fingers must have been very small, is that so ?—A. Yes—accepting Dr. Bell's evidence that he put in a tube of 2 inches ; if you took 2 inches off there is not much left.

50 Q. If her story—if you take 2 inches off, and 2 inches is put in, it is pretty hard to have half an inch left, isn't it ?—A. Yes, but Mrs. Hocking didn't say exactly 2 inches. She said from 1½ to 2 inches—

Q. Did she ? Did she tell you that ?—A. No.

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Q. Who did she tell that to?—A. I heard it in the Court.
Q. But in her sketch, she drew it at 2 inches, and in her particulars she described it as 2 inches?—A. I heard her describe it as 1½ to 2 inches.

Q. That was to whom—one witness, wasn't it?—A. I forget.

Q. Who was it to?—A. I forget.

Q. You heard it said, by one witness in this case, 1½ to 2 inches?—
A. And I heard it said that that sketch was an exaggeration.

Q. You heard it said by one witness in the whole of the case that it was 1½ to 2 inches?—A. I thought it was Mrs. Hocking who said it.

Q. Your recollection is that Mrs. Hocking said it?—A. Yes. 10

Q. You heard the wires described as 1¼ inches long, and the other one shorter—about an inch?—A. The wirelike structures, yes.

Q. One, 1¼ inches, and the other about an inch. You heard that, didn't you?—A. No, I don't remember about the wire.

Q. You don't remember that?—A. No.

Q. Have you never heard that? I suppose you followed the description of that tube with great interest. You have followed the description of that tube with great interest, haven't you?—A. Yes, but I don't remember the length of the wirelike structures.

Q. Do you tell us that you never heard her describe those wires as 20
one about an inch or 1¼ inches, and the other slightly shorter?—A. Yes, I have heard that.

Q. Why did you say a while ago that you hadn't?—A. I don't think that is what you put to me first.

Q. What do you suggest I put to you?—A. I don't quite remember.

Q. There is no doubt about it. You have heard that described on different occasions. The wire 1¼ inches long, one 1 inch to 1¼ inches long, and the other slightly shorter?—A. Yes.

Q. That is on page 73. That is right, isn't it?—A. Yes, I have heard that. 30

Q. You have sworn to Mr. Justice Maxwell, have you not, that an object, of which that is a fair representation (indicating), could not pass up and out in the way this woman describes?—A. No. I said that that object could not.

Q. That is Exhibit "P."

Mr. SHAND : That was with the wire in it.

Mr. CASSIDY : Did you hear Mr. Shand then?—A. No.

Q. I want to put to you the exact answer that you gave to Mr. Justice Maxwell, that an object of which that is a fair representation (indicating) could not pass as the Plaintiff said?—A. No, I did not say that to 40
Mr. Justice Maxwell.

Q. Do you agree with that?—A. No.

Q. So that you will deny that you said that in Court?—A. I think I heard a very long protest in the presence of Mr. Justice Maxwell about that particular object.

Q. What was the protest?—A. That that object could ever be used in a thyroidectomy and Mr. Justice Maxwell said "That startled you," or words to that effect, and then there was a very long discussion.

Q. You remember the words "that startled you"?—A. Yes.

Q. You have read them recently?—A. Yes, and some time ago. 50

Q. Didn't you say that the object of which that is a fair representation could not pass up and out of the tonsil?—A. No.

Q. Do you say that?—A. Not in the way you are putting it to me.

Q. I take it that you are swearing that you did not say that?—A. No.

Q. Will you admit that you said it?—A. No, I won't admit that I said it.

Q. Take it as it stands at present. It could not have been, could it?—A. It was never used in a thyroidectomy operation. It could not be.

10 Q. The purpose of the tube is to drain the wound, isn't it? The purpose of the tube is to drain the thyroid cavity, isn't it?—A. Yes, but it is not impossible that something that looks like a swab—

Q. Will you answer my question. The purpose of the tube is to drain, isn't it?—A. Yes.

Q. And a swab would not be put in the tube because it would just defeat the purpose of the tube, wouldn't it? The swab would defeat the purpose of the tube and prevent drainage, wouldn't it, you can answer that, can't you?—A. Yes. I don't know that a swab is put in the tube.

20 Q. But it is obvious that it would defeat the very purpose of the tube, wouldn't it, to put a swab in it?—A. Yes, if you mean that there was a swab in it.

Q. A swab in that tube would prevent the very purpose for which the tube is used?—A. Yes. If a swab were in it originally, it would defeat the purpose of the tube.

His HONOR : If a swab were put there, it would defeat the purpose of the tube?—A. Yes.

30 Mr. CASSIDY : And if it were pulled, and it broke, I suppose you would realise that the condition of the neck at that time would be very, very serious just after that operation?—A. The condition of the neck was very serious.

Q. You may take it that the operation was only on the 15th. In tugging or pulling at the neck, that would be a most dangerous thing, wouldn't it, for a surgeon to attempt—most dangerous for a surgeon to attempt. That is obvious, isn't it? There is only one answer to that question, isn't there?—A. No. The mere pulling or tugging is not necessarily dangerous.

Q. If there was a resistance, would it not be such that if a man had to pull a third time—would it not be dangerous to that neck?

His HONOR : To that wound, I suppose you mean?

40 Mr. CASSIDY : Yes.

Q. I want the answer whether it suits me or whether it is against me?—A. Yes. On general principles it would be dangerous.

Q. To attempt to use your fingers without gloves round about a neck in that condition, and with no forceps would also be a risky thing to do, would it not, for a surgeon?—A. To take a tube out without gloves, not necessarily.

Q. Isn't the bugbear of the surgeon the infection that follows an operation?—A. The infection at the time of operation.

Q. No ; and that which follows it.

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His HONOR : So they only have to worry about infection at the time ?—A. No ; all through, Your Honor.

Q. It can come from all sorts of sources—infection—can't it ?—

A. Yes, it can theoretically come from all sources.

His HONOR : What about practically ?

Mr. CASSIDY : And practically too. That is more important ?—

A. No, to get a thick purulent discharge on the 20th after the operation on the 15th—

Q. Practically, infection can come from all sorts of sources, can't it ?

—A. Not a heavy infection, such as present in this wound. 10

Q. It could not ?—A. No.

Q. Suppose there was a bit of catgut, and there was something wrong with the catgut ?—A. Yes, that is what I was saying—something from the operation.

Q. Couldn't it come from a doctor's hands ?—A. Yes.

Q. From a doctor's breath ?—A. No ; not heavy enough.

Q. Do you say that ?—A. Yes.

Q. What do you think they wear masks for ?—A. Yes ; that is why it could not come.

Q. That is why they are so careful. So do you think that they would use their bare fingers ?—A. With a sterilised hand, I don't see why one should not use the bare fingers. For many years we used bare fingers. 20

Q. Well, why do they use gloves ?—A. As an additional precaution.

Q. You have been collaborating with a Doctor Thompson, have you not ?—A. I have discussed some matters with Dr. Thompson.

Q. You have been collaborating with him, have you not ?—A. I have discussed some matters with Dr. Thompson.

Q. Is that all ?—A. That is all. I have not been collaborating in the ordinary sense of the word.

Q. The position is this, that on the occasion of the trial, in December 1941, you saw Dr. Poate examine this lady's throat in the presence of the Jury ?—A. Yes. 30

Q. You heard the evidence that Dr. Poate gave ?—A. Yes.

Q. You didn't deny it, did you ? (Objected to : pressed.)

His HONOR : You did not go back in the box thereafter ?

Mr. CASSIDY : You did not go back in the box thereafter to contradict it, did you ? (Objected to : pressed.)

Q. You heard what Dr. Poate said ? You heard what Dr. Poate said ?—A. I heard what Dr. Poate said, and I understand that he reluctantly admitted that an abscess could have passed through that vessel. (Objected to by Mr. Cassidy and asked to be struck out—objection withdrawn.) 40

Q. You say you heard Dr. Poate make a reluctant admission ?—A. Yes.

Q. Do you say that Dr. Poate's evidence was that there was scarring there through which this tube could have come out ?—A. I think that was the final effect of his evidence.

Q. Is it ?—A. I thought so.

Q. Will you swear it ?—A. I remember advising Counsel to that effect at the end of the first trial. 50

Q. Will you swear that that is what Dr. Poate said?—A. No. I don't remember the exact words.

Q. You, in any event, were not put in the box to contradict it?—A. No.

Q. Dr. Poate described it as "crypts," did he not?—A. He began describing it as crypts.

Q. And you said to Mr. Shand this morning that they were not crypts?—A. I said that what I saw was not crypts.

Q. And you knew that the case went on to the jury—that it was 10 crypts to the throat, did you not. (Objected to: pressed.)

His HONOR: You can get his recollection.

Mr. CASSIDY: Did you hear this. Dr. Poate said—— (Objected to: pressed.)

Q. If you had seen scarring in the throat, which was a scar which would allow this tube to come through, you would have given evidence of it, wouldn't you? You would have given evidence of it wouldn't you?

—A. I remember advising Counsel——

Q. You gave no evidence of it?—A. I thought Dr. Poate's evidence was sufficient.

20 His HONOR: Answer the question.

Mr. CASSIDY: You gave no evidence of it, did you?—A. No; and I gave you the reason why.

Q. And your Counsel then was Mr. Hardwick, King's Counsel, and the Junior Counsel was, as at present, Mr. Carson. That is right, isn't it?—A. Yes. (Objected to.)

Q. Well, the Plaintiff's Counsel?—A. Yes.

Q. Now coming along to what Dr. Poate said—is this what he said? Page 196. He looked at the Plaintiff's throat:—

30 "Q. Now will you tell the Jury what you see?—A. The patient has some granulation at the back of the throat, evidence of what we call chronic pharyngitis; she has some deep niches in the tonsils on either side, the tonsils what we term a little ragged as a result of low grade infective chronic tonsilitis."

Do you remember him saying that?—A. Yes; I don't remember the exact words, but he said something further.

Q. It goes on:—

40 "Q. Will you agree with this, that this is a fair description of what you saw, the superior aspect, that is the top of the left tonsil—that is the place is it?—A. They are both much about the same.

Q. It is between the tonsil and the arch of the soft palate, isn't it?—A. What is?

Q. In the superior aspect of the left tonsil between the arch of the tonsil and the soft palate you will find a depression, will you agree there is a depression there?—A. Yes.

Q. And bridging over the depression are strands of tissue tending to go upwards and downwards?—A. Yes.

50 Q. Now will you agree that there is evidence of scarring in the depression?—A. No. I take it as evidence of a chronic infection in the crypts of the tonsils, the same appearance occurs on the other side."

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tion,
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And you did not deny that, did you. Did you hear Dr. Poate give that evidence?—A. Yes, I must have. I thought he said more than that.

Q. "No scarring," and you say it was obvious, do you?—A. Very obvious.

Q. But you did not say it in your evidence-in-chief, did you, you did not say it when you gave your evidence on behalf of the Plaintiff?—A. I had not seen it then.

Q. You hadn't seen it?—A. No; I saw it the same day as Dr. Poate saw it.

Q. Well then, when you did see it, you did not say it, did you?— 10
A. No; I told Counsel——

His HONOR: According to the transcript here, apparently it was during the cross-examination of Dr. Poate.

Mr. CASSIDY: Yes, I am coming to that.

Q. You did not examine it then, did you. You examined it yourself, did you not?—A. I did not examine it in Court.

Q. But you had every opportunity to have a careful examination of it, didn't you?—A. Yes.

Q. And you examined it for the purpose of seeing whether Dr. Poate was right when he saw that?—A. No; I saw it before Dr. Poate saw it. 20

Q. And did you look at it again after him as your Counsel here suggests?—A. No; I had seen it before.

His HONOR: You did not examine it with Dr. Poate, together?—
A. No.

Mr. CASSIDY: You saw it before?—A. Yes.

Q. And did you see it after?—A. No.

Q. So that statement "after" is quite wrong—that you saw it after, isn't it?—A. I saw it before.

Q. You have got no doubt about before?—A. No.

Q. And might you have seen it just after?—A. No, I did not. 30
(Objected to.)

Q. Now I want to get this clearly——(Objected to—pressed).

Q. You did not see it afterwards, did you? That is right, isn't it? You did not see it afterwards? I want to get this before you leave for lunch?—A. Not on that day. I examined it on that morning. It was on my advice that Counsel asked Dr. Poate to see it.

Q. And Counsel did it?—A. And Counsel did it.

Q. And Counsel was fully aware then of the importance of it, I presume?—A. Yes.

Q. And he did not put you in to contradict it. (Objected to.) 40

His HONOR: You were not called in reply?—A. No, I was not called in reply.

Mr. CASSIDY: Now let us get on. "There is no bridging over the depression on the right tonsil," and the answer was "Yes, but it varies with the individual human beings and the extent of the trouble that they get there, the appearance of the tonsils." (Objected to.)

Mr. CASSIDY: There was none left out.

Q. The evidence goes on :—

“ Q. What I suggest is this, when you look at the left tonsil it is perfectly obvious that there is a depression there ?—A. Yes.

Q. And over that there are fibres there, two at least of what I would call bridges of tissue ?—A. Yes.

Q. And that on the other right tonsil there is no such similarity at all ?—A. They are very similar, but they are not the same mirror picture.”

Was that correct ?—A. Probably.

10 Q. Not probably ?—A. I have no doubt that it was correct on the observation.

Q. And you have no doubt about that observation ?—A. The observation was quite erroneous.

Q. The evidence goes on :—

“ Q. Will you dispute that on the left tonsil from what you can see it is perfectly consistent with having broken out there at that point ?—A. Something that was in the tonsil ?

Q. There is evidence of sloughing there ?—A. No, I would not say that.

20 Q. At some time or other ?—A. No, there would be more scarring and deformity.

Q. The scarring comes down a little over the bridge of the depression ?—A. You see that in thousands of throats, there is nothing there—(interrupted).

Q. Supposing the woman had never had any condition at all excepting after the incident described, the foreign body coming out of the throat ?—A. Yes.

Q. Do you say that that condition you now see is not consistent with her story (Objected to).

30 Q. On the assumption that on the 2nd October 1939 a foreign body was ejected from that region, is the condition of the throat consistent with that ?—A. I would say no.”

Q. Do you remember that ? Is that right ?—A. I don't remember it.

Q. But do you remember the other part ?—A. No, I don't remember it. I thought he said more than that.

Q. The evidence goes on :

“ Q. Although you agree that there are those two bridges of tissue ?—A. Yes.

Q. And there is a depression at the back ?—A. Yes.

40 Q. And you say that it is consistent with tonsillitis ?—
A. Chronic tonsillitis.

Q. Will you agree that it is consistent with the discharge of an abscess ?—A. I cannot say one way or the other as regards that.

Q. Well, it might be ?—A. I don't think it is.

Q. Will you say that it is a possibility ?—A. Yes, a very remote possibility.

50 Q. If that lady had quinsy and there was a burst from quinsy, would you expect to see a tonsil like that ?—A. Not altogether. You see, with quinsy it is what we call a peritonsillar abscess, the infection develops between the capsule of the tonsil and the muscles at the back and it bursts along the edge of the muscle, it does not come through the tonsil, it is a different thing altogether.”

Now that is the lot. (Objected to.)

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Mr. SHAND : There is page 205, from line 11.

Mr. CASSIDY : Going back to page 204 :—

“ Mr. Hardwick : If the inflammation was still in that region when she was sick at the end of October, I suggest it would be quite possible that the complete condition of it, I mean the complete condition as it was then, would be shut off from the person who examined it, by reason of the inflammation ?—A. No.

Q. You think if there was inflammation there a medical man who looked at it could fairly describe whether something had been ejected or not ?—A. Yes, there would be fixation of tissue. 10

Q. You could have seen whether there was a hole there ?—A. Yes, but there was more evidence than that of that inflammation. What one looks for is not necessarily a hole. The inflammation affects the surrounding tissues, and as a result they lose their mobility and elasticity.

Q. At this very moment on the left tonsil you can see there has been a hole there, will you agree with that ?—A. In the tonsil there are many holes in both tonsils.

Q. I don't mean a natural hole. I mean a hole caused by something coming through the tonsil ?—A. I would not say coming 20 through the tonsil ; I would say coming out of the tonsil, yes.”

A. Yes.

Q. You have given me perished rubber as the thing that might cause that rubber to break. Before you go to lunch, is there anything else ?—

A. Yes. I am not competent to say.

Q. Is there anything else, I ask you ?—A. I am not competent to say.

(Luncheon adjournment.)

At 2 p.m.

Mr. CASSIDY : Do you remember making this answer to Mr. Monahan, first trial, page 109 : 30

“ Q. You would not assume that there was any of the tube left after the 17th after seeing that record ?—A. I am not assuming that there was.”

That correctly sets out what you said on that occasion ?—A. Yes, that is correct.

Q. Assume for the moment the tube was there. If the tube was there we would have the rubber about 2 inches. Assume a tube was left despite that evidence I have referred to. The rubber is about 2 inches long, do you follow ?—A. So far I do, yes.

Q. In it are two things which look like wire. As to that, that one 40 of them is 1½ inches long beyond the end of the tube and one of them slightly shorter. You see that gives you an overall length of 3 inches ?—A. I follow.

Q. That tube for a start could not be there without the surgeon noticing it ; it could not remain in without the surgeon noticing it in that area ?—A. That is not for me to say.

Q. The thyroid in this case was only about 2 inches, 2½ to 3 inches in length ?—A. Yes, there is room for such a tube, for such an instrument, in the cavity.

Q. If the surgeon had thought he left it there and was probing he 50 could not miss it ?—A. It is not for me to say.

Q. What is your opinion? Do you know that surgeons are in the habit of probing these wounds after operations?—A. No, I do not know that.

Q. But really you do, don't you?—A. Not necessarily, not unless they suspect something is there which should come out.

Q. But it is one of the ordinary accompaniments of post-operative treatment in big operations?—A. No, it is not. It is not in a clean area like the thyroid.

Q. But the thyroid was poisoned?—A. It was non-septic.

10 Q. It was poisoned?—A. It was a non-infected thyroid.

Q. It was a diseased thyroid?—A. Not in the sense that you are trying to convey. It was a non-infected thyroid.

Q. But it was a diseased thyroid. That was the reason for this removal?—A. It was a toxic thyroid. It was diseased to that extent but not infected.

Q. But it was diseased, was it not? You gave evidence on a previous occasion. You gave her condition in 1937. Will you think of it while I am looking for the evidence. (Mr. Cassidy refers to page 58, line 30, last trial.) Do you remember giving this evidence in examination-in-
20 chief:—

“As the condition progressed apparently her thyroids became noticeably enlarged and the condition settled down to a more or less obvious toxic thyroid condition.”

That is a correct description. That was what you said before?—A. It is perfectly correct.

Q. And that conclusion was obvious from the history you read, was it not?—A. Yes.

Q. And as you said “an obvious toxic thyroid condition”?—A. Yes.

Mr. SHAND: “A more or less obvious toxic thyroid condition”
30 were the words.

Mr. CASSIDY: You used these words this morning. “The Plaintiff had said she had some enlargement of the thyroid.” Do you remember saying that this morning?

Mr. SHAND: No, the Witness did not say it.

The WITNESS: I have no doubt there was some enlargement of the thyroid.

Mr. CASSIDY: And the Plaintiff said she had some enlargement of the thyroid?—A. She did not tell me, it was in her evidence.

Q. In her evidence you heard that she had some enlargement of her
40 thyroid?—A. I heard in evidence that she had some enlargement of her thyroid.

Q. You have an object 3 inches in overall length. If there were infection there it would be a very very big object. If it were the cause of the infection you would get the start of a very very huge infection?—
A. You did get a very huge infection.

Q. Is that what you say?—A. Yes, I do.

Q. Her pulse rate remained reasonably right. Had you noticed that?
—A. I do not remember her pulse rate.

Q. But would not it be important for you to observe?
50 ture was more important.

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Q. But did not you look to see the history of the pulse rate?—
A. No, I do not recall it.

Q. Will you agree that the history there shows that it was over in a few days, that, what you call "heavy infection"?—A. Indeed it was not. It lasted all through her period in Quirindi Hospital.

Q. The acute stage was over in four days?—A. We are speaking of two different things; you are speaking of the toxic thyroid and I am speaking of the infection of the wound.

Q. The heavy infection cleared up within four days. What do you say?—A. Indeed it did not. What infection are you speaking of? 10

Q. Well, what heavy infection remained?—A. She was suffering from two conditions—(1) a toxic thyroid which cleared up very soon, and the other the wound infection by suppurative bacteria.

Q. It lasted until when?—A. Some months on the hospital records.

Q. Within four days it showed that the heavy infection had disappeared?—A. It had begun. It was four days after the operation.

Q. You told us on the 20th the temperature was high—103.8?—
A. Yes.

Q. If it were a heavy infection would her temperature have returned to normal within four days and her pulse?—A. The temperature did not 20
return to normal.

Q. If it did return to normal within four days would it show that it was not a heavy continual infection?—A. It was a swinging infection and that meant it was rising and falling. During the fall it would return to normal or subnormal.

Q. Did it keep rising and falling in a serious way?—A. Yes, it did.

Q. For how long?—A. It kept on for some time.

Q. What does some time mean? Don't look at what you have there?
—A. I want to see the date.

Q. I am asking you theoretically. You said it would keep on for some 30
time. If it is a heavy infection for how long would it keep on?—A. It varies with the infection.

Q. If you are going to give a prognosis or a conclusion you must know how long it would continue?—A. No, you cannot foretell it.

Q. For how long do you suggest?—A. For as long as it remains potent.

Q. If it got back to normal or to 97 on the 22nd and pulse rate 76, would not she be back to normal?—A. No, she was subnormal and in a dangerous condition.

Q. But the pulse rate is very important as I am reminded by Dr. Edye.
(Objected to.) 40

Q. Would you agree with Dr. Edye that the important thing—
(Objected to.)

Q. Will you agree with Dr. Edye that the pulse is the important thing.
(Objected to.)

Q. Well, if Dr. Edye says the pulse is the important thing to look to, would you agree with him?—A. In what condition?

Q. In regard to what you call a heavy infection?—A. I do not agree it is the most important.

Q. Since you say the heavy infection persisted will you tell the Jury the last day you see her temperature above normal? I am asking you first 50
to tell me without looking at the record. I understand your evidence was considered evidence before you gave it?—A. Yes, I think so.

Q. Well, tell us what was the last day on which the temperature was other than normal?—A. The temperature has not been recorded on the hospital records beyond a certain limited period.

Q. You know that the temperature got down to 97 and after that the temperature was normal?—A. No, I do not know that.

Q. Did not you hear the nurses swear it? (Objected to)?—A. No. (Objected to again.)

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10 Q. Assume for the moment that the temperature is normal after the 22nd (March) what do you say. Do you still say the heavy infection persisted? (Objected to; admitted)?—A. Yes, if you will allow me to explain.

Q. But answer the question first?—A. Yes, I do say definitely that it did persist.

Q. Did you see in the hospital records that the night special went off?—A. Yes, I see that the night report ceased.

Q. And that the night special went off?—A. I presume the night special went off.

Q. You said you saw that the night report ceased?—A. According to the report I got the night reports ceased.

20 Q. Show me the record you got?—A. Well, the special night records, I mean.

Q. Show me your special night report? Will you point it out?—A. It is an old record which I have. This is the special day report. I thought I had it.

His HONOR: What are you looking at now?—A. It is a very old copy of the St. Luke's Hospital report—oh, here are special night reports. This has the heading "Special night reports." It goes on to special day reports. It ends 23rd March.

30 Q. After that you have ordinary night reports?—A. Yes.

Q. While there is any variation in temperature you have your temperature shown in the hospital records?—A. No, not altogether. There are special temperature charts which we have not got. They are separate from these reports.

Q. Do you suggest there are special temperatures in this case?—A. They must have been taken in a hospital like St. Luke's, special temperature charts which have not been produced in this case.

Q. Have you ever asked for them?—A. I think Counsel asked for them.

40 Q. Did you ever make any suggestion before that there were any special temperature reports?—A. Obviously in a well-conducted hospital there would be.

Q. But you have the temperature when there is anything abnormal down to when you get to 97?—A. No, only when the special night report was on. In every well-conducted hospital there are four-hourly temperature charts.

Q. Do you say there are only temperatures in the night reports?—A. No, I do not say that. I say the record of temperature ceases about the 23rd March.

50 Q. The 22nd?—A. About the 23rd March. The last one I have is the 23rd. There is no other record of temperature.

Q. And Plaintiff was discharged on the 14th April and does a motor trip home?—A. Yes, and there must be other temperature records.

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Q. You know she was discharged on the 14th April and went home by motor car?—A. I have heard so.

Q. Do you still say there was a heavy infection?—A. Heavy infection still recorded.

Q. It is still recorded?—A. Yes.

Q. What have you to say that on?—A. On a record on the 23rd March. On the 25th there was a large amount of sero-purulent discharge at 2 a.m. On the day report of the 22nd, there is "Free purulent discharge."

Q. Is that what you say, on the 14th there was still heavy infection 10
by that entry on the 27th March?—

His HONOR: The witness did not say the 27th.

The WITNESS: There must have been a continuance of the infection although apparently not the same amount. I think I did say the 22nd. It was the 25th.

Mr. CASSIDY: You say it continued up to the 14th April?—A. The infection continued because it was continued right into the Quirindi Hospital.

Q. Do you say there was a serious heavy infection here when she left Sydney on the 14th April?—A. It was not so serious as it had been 20
before. It had largely subsided, but had recrudesced again when she was in Quirindi Hospital.

Q. Something might have happened in between with a woman in her own home for two weeks. It is possible to get infection into a wound in your own home?—A. It is possible.

Q. You may take it she did not see the doctor for nearly a fortnight after she went home. You may have got an infection in that period quite easily, might you not?—A. Yes, that is possible.

Q. Infection, of course, you agreed this morning can come from various sources?—A. Yes. 30

Q. You see in the St. Luke's Hospital records that probing took place in St. Luke's Hospital?—A. Yes.

Q. It is recorded. If a tube had been left there and a tube 3 inches overall with a thing sticking out, something of that nature left there, would a surgeon have felt it when he was probing?—A. I should expect so.

Q. Once the infection started to get heavy with regard to a tube of that length 2 inches long, will you not get swelling?—A. Not if there is a free discharge. You would not get much swelling.

Q. But if it is an opening and it has got gauze or swabs in it, you will not get draining, will you?—A. Not if the tube blocks the opening. 40

Q. The result would be that the patient, if it is left in as suggested between the 17th March and the 14th April and the doctor saw the person daily, it would be impossible to miss the swelling?—A. It would be impossible to miss any swelling present, yes.

Q. When we look at this thyroid you know that the windpipe comes pretty close to the flesh there. It comes close to the outside skin?—A. Yes.

Q. And it takes very little pressure there from anything to be felt on the windpipe?—A. In a healthy person, yes.

Q. Or in a sick person?—A. Not necessarily with an infected wound 50
in the throat.

Q. You would feel it?—A. You would feel it due to the infection.

Q. It was put in to the right. If it were pulled out from the right, if it was put down that way, down from the lobe, the pulling would be up?—A. I do not know how the tube was put in.

Q. If it was across into the left, any pulling would bring it across the front of the windpipe?—A. Not necessarily.

Q. It could not get across your windpipe into your left lobe, could it?—A. In the condition of this case with the heavy purulent infection it could.

10 Q. It would travel from the right to the left while the woman is in hospital being seen by nurses during the day; is that right?—A. Yes, that is right.

Q. Would not you notice a tube of that size going across the front of your windpipe? Could you miss it?—A. I would not be likely to miss it. I do not know how it travelled. I do not know it was in the right or left side.

Q. You have heard it sworn that it was put in an inch to the right of the middle line?—A. It was one end.

20 Q. It was put in. The cut was one inch to the right of the middle line. That was evidence from the Plaintiff herself. You have heard that, is that right?—A. Yes, but I do not know where that part left behind was left.

Q. You know it went one inch to the right of the middle line?—A. I do not know. I know it was said to have done.

Q. But you know that is the sworn evidence by the Plaintiff?—A. She may be mistaken, I do not know.

Q. It went in one inch to the right of the middle line?—A. It makes no difference as far as travelling of the tube is concerned, not so long as there was a heavy infection in the thyroid capsule.

30 Q. If there is a heavy infection there you will get a lot of pus?—A. Yes.

Q. The thyroid capsule is open at the bottom?—A. I do not understand that.

Q. Do you know your anatomy of the thyroid capsule?—A. I did not know it was open at the bottom.

Q. Will you agree that it is?—A. No, I do not know.

Q. Will you deny it?—A. I would not expect it.

Q. Do you know now whether it is open at the bottom or not?—

A. I thought the thyroid was completely enclosed in a capsule.

40 Q. You know that is absolutely wrong?—A. No.

Q. Will you agree with Dr. Poate that it opens at the bottom? If he says that, will you say he is wrong?—A. I would not agree.

Q. Would you say he is wrong?—A. As far as I know he is wrong.

Q. If Dr. Poate says that will you say he is wrong? Is it open at the bottom or is it a closed capsule?—A. I understand it is a closed capsule.

Q. Who told you that?—A. I understand so.

Q. Where did you read it?—A. I have dissected many thyroids.

50 Q. Have you read that anywhere?—A. No, I have not read it anywhere.

Q. This is after the operation; it is open?—A. Oh, that is another matter altogether.

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Q. The pus comes after the operation ?—A. Yes, it did come after the operation.

His HONOR : Before the operation was there any pus in that thyroid ?
—A. No, undoubtedly.

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tion,
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Mr. CASSIDY : Will you agree it is open after the operation ?—A. It depends how the surgeon removes it. He would have to incise the capsule in order to get out part of the thyroid gland.

Q. And it will leave it open ?—A. Part of it open. You did not ask that at first.

Q. Once you have it open the pus runs down. You know what I 10
am at now ?—A. You asked me, did I know my anatomy. This is a matter of surgical procedure.

Q. You will agree with me, will you, that the pus has nothing to hold it in and that it goes down ?—A. No, I don't agree with that at all, I agree that there is an opening in the thyroid capsule through which pus may go.

Q. Do you suggest that there is a surgeon's cut left after the operation which makes a difference ?—A. Undoubtedly.

Q. You have sworn this morning before lunch that the suppuration would be upwards ?—A. I said that if pus travelled from the thyroid cavity in the neck the tendency would be for it to go upwards. 20

Q. I want to put to you that exactly the opposite is the position, that the thyroid capsule is open and the pus goes down into the mediastinum ?—A. No, very seldom indeed.

Q. What will hold it ?—A. Muscle and fascia.

Q. There are no muscles there and the fascia and thyroid are one piece aren't they ?—A. The thyroid capsule.

Q. And the thyroid capsule goes right down to the mediastinum ?—
A. No, I don't think it goes down as far as that.

Q. I suppose you will admit that you are pretty unfamiliar with what the position there is in the thyroid capsule ?—A. No, certainly not, I 30
have dissected many thyroids.

Q. But that is the thyroid after it is removed, when the thyroid has been sent up to you ?—A. No, I meant in the human subject.

Q. Dissected them ?—A. Yes.

Q. For the sake of finding out about them ?—A. For the sake of finding the parathyroids.

Q. When ?—A. Mostly in Edinburgh.

Q. And is your memory good ?—A. Good as regards that.

Q. Have you seen an operation for thyroidectomy ever ?—
A. Frequently. 40

Q. How long ago was the last ?—A. About the time when Sir Alexander McCormack was operating.

Q. When was that ?—A. I don't remember when he left—10 years ago.

Q. In 1933 did you see Sir Alexander McCormack doing operations on the thyroid ?—A. I cannot give you the year.

Q. Whereabouts in 1933 do you suggest that you saw an operation by Sir Alexander McCormack ?—A. Probably at the Terraces Hospital.

Q. In 1933 ?—A. No, I did not say in 1933.

Q. Well, when ?—A. I don't remember when Sir Alexander left. 50

Q. I put it to you that you have never been present at one of Sir Alexander McCormack's thyroid operations during the whole of the time Dr. Edye was there?—A. I had to call there.

Q. Will you agree that what I am saying is right?—A. No, I don't remember it.

His HONOR: Has Dr. Edye been present at any thyroidectomy that Sir Alexander McCormack has performed in your presence?—A. I cannot say.

Mr. CASSIDY: You follow, of course, that if a tube is moving it only 10 moves by suppuration, does it not?—A. It would be carried by the suppuration.

Q. And the carrying of the tube would be a slow process?—A. Not necessarily.

Q. A tube that size?—A. Not necessarily.

Q. For a start if there is only half an inch when it breaks, if only half an inch comes off in the surgeon's hand and an inch was seen sticking out—

His HONOR: I have no recollection of that evidence.

Mr. CASSIDY: Half an inch seen sticking out. If the break occurs 20 something must be holding the portion that is left in?—A. Well, you are back again on these questions which I said were quite outside my province.

Q. Why is that outside your province?—A. Because it does not concern pathology.

Q. You have spoken of a lot of things that do not concern pathology?—A. No.

Q. Anatomy does not concern pathology?—A. Indeed, it does.

Q. The probe that goes in is searching for knots or anything like that, is it not?—A. For two purposes, I understand, probing is undertaken first of all to keep the wound open and secondly to discover if there is any 30 foreign body in there, and if there is to help it to come out.

Q. Any foreign bodies like knots?—A. Any foreign body, knots or dead tissue or a piece of tubing or anything like that.

Q. And if it is a soft rubber piece of tubing your probe will catch it?—A. No, the probe has a blunt end, it will not catch it at all.

Q. And pull it with it?—A. No.

Q. How far do you think it was in the day after the 17th?—A. I have no idea.

Q. Can you imagine wires being used in that operation?—A. Not wires, no.

40 Q. Can you imagine any straight piece like that being inserted in a tube sticking out straight as shown in that sketch?—A. I am not competent to explain that at all.

Q. It cannot be explained at all?—A. I think it might.

Q. Who by?—A. A surgeon.

Q. It could be explained?—A. I think it might.

Q. And a surgeon would also be able to explain why it was it broke?—A. Yes, he might.

Q. You remember that as the sketch is drawn it is the flat end there and then the break and then these two ends sticking in that fashion?—

50 A. Yes, that is roughly the sketch.

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Q. So that is to say the two ends sticking out are sticking out the broken end towards the outside of the wound. If that is the way it breaks the wires would be out towards the open end?—A. Yes, if it broke there.

Q. And you know it is suggested that it broke where the nick is made in the tube?—A. Yes.

Q. And the nick is made in the farthest part in?—A. This sketch reminds me of something that I overlooked. I overlooked the "V" in my evidence before. The tube was not torn all around its circumference.

Q. I suppose it means that all that part is torn up to the two sides? 10
—A. This is a cut. I overlooked that in giving my evidence.

Q. That is the sides of the cut then?—A. Yes.

Q. Do you suggest that a big piece was pulled out?—A. That "V" was already cut there.

Q. That "V" is already cut there?—A. A diamond cut. I did not notice it before.

Q. A diamond cut. You see, this sketch is drawn about 2 inches long and it is down to about $\frac{1}{2}$ -inch at the bottom?—A. That sketch is admittedly an exaggeration.

Q. You remember this was cut in the lady's presence and it 20
is cut within half an inch of the bottom?—A. I don't accept that.

Q. You don't accept that?—A. Indeed I do not.

Q. And you don't accept the cut?—A. I don't accept the model.

Q. What do you suggest is the extent of the diamond cut?—A. I don't suggest any extent.

Q. I suppose I may take it from you then that a thing of which that is a fair representation could not move as suggested?—A. I won't have that under any consideration.

Q. Will you have the swab in it?—A. I don't know anything about
a swab. 30

Q. Will you have anything sticking out in it at all?—A. Not the wire.

Q. Anything at all?—A. I cannot answer that question.

Q. What you are saying is that this thing has to go up the neck and has to get up beside the tonsil?—A. That something of which Mrs. Hocking regards that as a rough representation has to do that.

Q. Then it has to turn at right angles to come out of the tonsil?—
A. Then it is embedded in an abscess of the tonsil, and yes, it would have to turn.

Q. It would have to turn at right angles to go through?—A. Yes. 40

Q. So, according to you, you have a path up the neck turning at right angles and going through the tonsil?—A. It would not necessarily be at right angles, it would be at an angle.

Q. And you really suggest that is possible?—A. I really suggest that this is possible on the evidence.

Q. But during that period, of course, you could not expect the wound to heal, would you?—A. Yes, the wound could heal, undoubtedly.

His HONOR: Would you expect it to heal or just could heal?—A. If the tube were out of that position I would expect it to heal.

Q. Out of what position?—A. Out of the position in front of the neck 50
or close to the opening in the neck.

Mr. CASSIDY : But you know that this wound did heal, don't you ?
—A. Yes, part of the time.

Q. You know that in June it had healed up and there was no discharge ?—A. Yes, in June it had healed up.

Q. And you know that there was no discharge at any time after that ?—A. That is quite possible.

Q. When do you say the first evidence of discharge is, the 2nd October, is it not ?—A. The first evidence of discharge ?

10 Q. Yes, after it healed up, the 2nd October, is it not ? No evidence of discharge from the wound or anything connected with it until the 2nd October then, even on her story ?—A. I don't remember that.

Q. You don't remember any other evidence of discharge, do you ?—A. No, not from the wound.

Q. Nor from any portion of the neck ?—A. No, only great swelling of the neck.

Q. You heard her husband say that her neck got back to normal and that the tetany was the only trouble remaining ?—A. I heard him say the tetany plus the swelling.

20 Q. Didn't you hear him say that the neck was normal ?—A. No, I did not.

Q. Do you remember that at the first trial, don't you, when Mr. Monahan was cross-examining him ?—A. I don't remember that at the first trial.

Q. Of course you will agree that if Dr. Bell only took out half an inch as described he knew that something else was left behind ?—A. I should think he would.

30 Q. And then if two wires were sticking out and he had only removed half an inch, that the two wires would be towards the outside of the wound, wouldn't they ?—A. The two wirelike structures would be towards the outside of the wound.

Q. And if they were black it could be seen ?—A. They would be inside the wound.

Q. Why ? You see, if they are $1\frac{1}{4}$ inches long and they are sticking out for $1\frac{1}{4}$ inches, and only half an inch had been broken off, they would be sticking out, wouldn't they ?—A. The point is this—

40 Q. If they are $1\frac{1}{4}$ inches long as sworn and only half an inch of rubber is broken off, those wires must have been sticking out ?—A. I don't admit that any wire was present at all, but wirelike structures were found 18 months after, but they may not have been sticking out when the tube was broken.

Q. How do you suggest that they were sticking out when found ?—A. That is a matter for a surgeon to explain.

Q. I think you have agreed that any foreign body left in moves in a pocket of pus ?—A. That is right.

Q. And that involves suppuration, which creates an enlargement of the cavity in the path in which it will travel ?—A. Yes.

Q. Such enlargement means the destruction by suppuration of tissue ?—A. No, it means separation of structures by pus, not necessarily destruction.

50 Q. Did you not tell us before that you would get destruction of muscles, arteries, veins, sinews and nerves ?—A. No, I denied that. I deny that is a necessary part of this process.

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Q. If you did get it, those tissues are not replaced by other tissue, are they?—A. Some of the tissues are replaced.

Q. That, as you agreed before, those tissues have no elasticity?—

A. I said if suppuration occurred in a muscle the muscle would not recover, but would be replaced by fibrous tissue which had much less elasticity than healthy muscle.

Q. And the result would be that you would not get freedom of movement of the neck?—A. You would get the movements of the neck limited if the abscess formed within the muscle.

Q. You know, do you not, that this lady has never at any time 10 shown any limitation of movement in the neck?—A. I heard that she had.

Q. You saw no evidence of it, did you?—A. I did not examine her.

Q. You saw the movements of her neck and head are quite free?—

A. Now they are, but not before the 7th October, on her evidence.

Q. Have you taken any notice of the evidence of Dr. Edwards, the radiologist?—A. I don't remember Dr. Edwards.

Q. You have forgotten his evidence entirely?—A. I don't remember his evidence.

Q. So that is not in your mind at all at the moment?—A. No.

Q. You remember on the last occasion being asked about it, you 20 know Dr. Tebbutt took a blood count of this lady very shortly after the 11th October?—A. Yes, I have a copy, may I refer to it?

Q. Yes. And you knew that this lady had had nothing to eat except arrowroot and bovril?—A. No, I did not hear her say that.

Q. What did you hear her say?—A. I heard that she could only swallow liquids and soft foods, and I heard that her husband had been feeding her on custards and mince.

Q. You heard the husband mention mincemeat to Mr. Shand when he got into the box in reply the other day?—A. I did.

Q. You had never heard mincemeat mentioned before in the case, 30 had you?—A. I cannot say that.

Q. Do you think it is quite accidental that mincemeat was mentioned for the first time this time? (Objected to; disallowed.)

Q. I put it to you that you know quite well that mincemeat as an item of food was not mentioned in this case until the husband gave evidence the other day?—A. No, I did not know that.

Q. Do you swear you heard it mentioned in Court before?—A. No.

Q. Did you know that her husband was going to give evidence of mincemeat?—A. No.

Q. It is one of the things you noticed?—A. Yes. 40

Q. You know on other occasions that the question was put that the blood count of hers showed that she was normal?—A. The blood count that was taken on the 28th October—

Q. I want your answer to that; the blood count was normal?—
A. Yes, that is what I said, on the 28th October.

Q. And you agreed, did you not, that having a normal blood count on the 28th October was inconsistent with that woman's story?—A. No, I did not agree with that.

Q. Do you say it is inconsistent with her story?—A. Yes.

Q. Did you ever use the words that it was inconsistent with her 50 story?—A. Not to my knowledge.

Q. I want to read the cross-examination: "Will you agree that if she had this gross suppurative process going on with pus coming in her mouth——" ?—A. When?

Q. ——"and this gross swelling, that would have had an effect on her blood supply, in your opinion as a pathologist—on the purity or impurity of her blood supply ?—A. It will have an effect on her blood but not such as to interfere with her life or anything of that sort." Do you remember that answer ?—A. No, I don't remember that at all, blood supply—I understood it was a blood count.

10 Q. I read it out to you: "It would have an effect on her blood but not such as to interfere with her life" ?—A. I don't remember that, but I don't know what period this refers to.

Q. You know that she says that from October 1938 to October 1939 she had not eaten anything but liquids ?—A. Including the highly nourishing milk.

Q. Did you hear her say that she could not take milk ?—A. No.

Q. "Will you agree that if the Plaintiff's story of this gross suppuration going on for some months before the 2nd October were true you would expect some abnormality in her blood ?—A. Undoubtedly" —A. Yes,
20 I would expect some abnormality in her blood on 2nd October.

Q. "If it were true that she were unable to eat anything but arrowroot and bovril for two or three months before, that would make the blood still more abnormal? (No reply.) Q. Assume if the woman only had arrowroot and bovril for two or three months before this occurrence, would not that add to the abnormality of the blood—on that assumption ?—A. The blood changes are very complex and you have introduced two different factors, suppuration and malnutrition, and each of them would have a different effect. His Honor: Would each of them have some effect on the blood ?—A. Undoubtedly. Mr. Reimer: You heard the Plaintiff say
30 that after the 2nd October she continued to have this big swelling and pus in her mouth up to and including the time she was in St. Luke's ?—A. I don't remember her saying that. Q. Assuming she had pus coming in her mouth while she was in St. Luke's Hospital, would you expect some abnormality in the blood ?—A. Yes, I would expect some of these reactions I have indicated to continue. Q. There would be some abnormality in her blood ?—A. Yes. Q. If her diet remained very light would you expect there to be some reaction in her blood ?—A. Yes, undoubtedly. Q. The reaction you would expect would be twofold, firstly low red blood count ?—A. No, high relative leucocyte count and a low proportion of red.

40 Q. Look at that document and tell me whether you think that is a normal or abnormal blood count ?—A. That is a very normal count. Q. In your opinion, assuming that is a correct blood count of this lady, is that consistent or inconsistent with her story ?—A. It is inconsistent." That is the answer you gave ?—A. It is the answer I gave to a double-barrelled question.

Q. Is that your answer ?—A. Yes.

His HONOR: What do you mean by an answer to a double-barrelled question ?—A. It was put to me that assuming her story was correct that suppuration was going on or continuing after the 2nd October.

50 Mr. CASSIDY: This is the question: "In your opinion, assuming that is the correct blood count of the lady, is that consistent or inconsistent

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with her story," that is a single question, isn't it, and you said: "It is inconsistent" ?—A. Yes, and what was her story ?

Q. The story, among other things, that there was pus coming out of the mouth ?—A. I think that is where she made a mistake.

Q. Is that wrong ?—A. Is what wrong ?

Q. Did you agree then that there was no pus coming out of her mouth on the 2nd October ?—A. Oh, no.

His HONOR : You said something about pus coming out of her mouth, is that wrong ?—A. On the 2nd October it is right, but not on the 28th October. 10

Mr. CASSIDY : So on the 2nd October you say there was pus coming out of her mouth ?—A. I am sorry, I must have confused your dates. On the 2nd October the blood would show a marked leucocytic action, on the 28th October that leucocytic action could quite well have ceased.

Q. If she has sworn that on the 28th October pus was running out of her mouth, do you believe it ? (Objected to ; disallowed.)

Q. Assume the Plaintiff says this : "Up to the 26th when you went down to St. Luke's was pus coming out of the back of your mouth ?—A. My throat was just a wall of pus at the back, I used to clean and scrape my tongue with a tooth brush and warm water" ?—A. If it had been pus 20 it would not require to be scraped and cleaned, that is where I think she made a mistake, I was asked to assume it was pus.

Q. You were asked to assume it was pus ?—A. Yes.

Q. And you won't make that assumption ?—A. No.

Q. And you won't make that assumption because you cannot accept that statement as a correct statement of the position ?—A. No, that is so.

His HONOR : What is wrong with it ?—A. Because the white material which looked to be pus or which she took to be pus was a coating which forms when a person is very ill.

Q. It is not pus at all ?—A. No, it looks like pus, it is white or cream 30 coloured, it is what Dr. Marsh described as dry mucus or fungi.

Mr. CASSIDY : And Dr. Marsh's description of it was correct ?—A. Yes, I think so. I think suppuration ceased on 2nd October.

Q. Assume she says that she scraped it off before the 2nd, the same remark would apply ?—A. Yes, the same remark would apply, it shows that she was very seriously ill before the 2nd October.

His HONOR : It was not pus at all ?—A. No, it looked like pus to her.

Mr. CASSIDY : If she were so ill as that her blood count could not be normal, could it ?—A. Not on the 2nd October. 40

Q. Nor on the 28th October ?—A. Yes, it could on the 28th.

Q. Even though she was scraping it off with a tooth brush ?—A. It had nothing to do with it at all.

Q. So it was not pus ?—A. No.

Q. It was some kind of a coating on the tongue ?—A. Yes.

Q. And that applies to on and prior to the 2nd October, as to what she said ?—A. Yes.

Q. Will you agree with this, that suppuration ordinarily follows the line of least resistance ?—A. As a general statement, yes.

Q. And when you have got an opening through which the suppuration is coming the tendency of any foreign body is to be carried towards that opening with the suppuration?—A. Yes.

Q. And if the wound is closed the infection will travel and extend until an outlet is found?—A. Yes, there would be periods of quiescence and periods of exacerbation but on the whole the suppuration would continue and the foreign body would continue there until some outlet was found.

10 Q. And if you have a swab there with that infection it will continue there all the time?—A. A swab?

Q. Yes, if you have a swab inside the rubber tube with that infection it will continue all the time, will it not?—A. More or less.

Q. You will agree with this, will you, where the muscles and fascia planes and other tissues are destroyed there is no chance of that part returning to normality?—A. There is no evidence of any muscle being destroyed.

Q. That is a recognised pathological fact?—A. If a suppuration occurs in a muscle the muscle fibres will be destroyed and replaced by a fibrous tissue, but there is no evidence of that occurring in this case.

20 Q. If muscle tissue and fascial planes were destroyed there would be no chance of it returning to normality?—A. The muscle would not. The fascial plane, as I interpret it in this case, was opened up and it was thickened but not destroyed.

Q. The authorities say you will not get a return to normality, don't they?—A. It all depends on the type of suppuration.

Q. The authorities say——A. I know what I am speaking about.

Q. The world authorities say that you will not get a return to normality, that is right, isn't it?—A. No, it is not right.

Q. Do you know Muir's book?—A. Yes.

30 Q. That is the book you used at Sydney University?—A. No, I taught from my own experience, but I referred students to Muir to supplement my teaching.

Q. Does this appear in Muir's book: "In suppuration there is an actual destruction of tissue and a return to normality is not possible"?—A. As a general statement that is correct, but not in every particular.

Q. You told me last time that passage applied to muscles, did you not?—A. Yes, but I say there is no evidence that muscles were affected in this case.

40 Q. It applies to fascial planes?—A. In the way that I explained, that they would be thickened.

Q. And it refers to other tissues and the only ones you exempted were the parathyroids?—A. That is tissue in the neck I exempted, but they are not the only tissues in the body. The parathyroids have a great power of recovery.

Q. With long-continued infection one would expect the wound to open up, if closed to open up again?—A. Is that me or Muir?

Q. That is you?—A. Under certain circumstances I would, but not necessarily always.

50 Q. And the foreign body would tend to keep the inflammation active?—A. Undoubtedly.

Q. "And you would agree that under those supposed conditions the sinus might not heal, it might close, it would not heal." That is what you said, isn't it?—A. I don't remember it.

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Q. The point was this, see, that your view was that if there was some foreign body and if the sinus did heal it would only heal up for a short time, and that is right, isn't it? With infection?—A. What is the sinus, the open wound in the front of the neck?

Q. Yes?—A. If the foreign body had shifted its position higher up the neck the external opening might close.

Q. Well, the foreign body is near the open wound, it will be discharging to the open wound?—A. Yes, if it is near the open wound it would tend to discharge towards the open wound.

Q. Do you suggest the wound would heal up while the foreign body 10 was there with infection?—A. Was there, in the neighbourhood of the wound?

Q. Yes, in the neck?—A. If the foreign body were higher up the neck.

Q. It could not go straight away up the neck?—A. Yes, that is what I suggest it did.

Q. Within how long?—A. You said straight up the neck.

Q. Within how long?—A. Within the period the pus travelled, that might be some months.

Q. During that time it would remain around about where it was left 20 for some months, wouldn't it?—A. Yes.

Q. And with it remaining round about in that region do you suggest the wound would close up?—A. It could close up.

Q. Do you suggest it would?—A. I see no inconsistency in it closing up. I explained before that it depends on the reaction between the patient's immunity and the infection and it closes up.

Q. The patient's immunity to a foreign body with a swab in it that has infection?—A. No, the patient's immunity to the suppuration. There is nothing inconsistent with the external opening closing.

Q. And keeping closed?—A. No.

30

Q. And keeping closed permanently?—A. Yes.

Mr. CASSIDY: All the time may I take it in this evidence of yours you reject any suggestion that it was an instrument or a foreign body like Exhibit "P"?—A. Yes. That exhibit could be a rough representation of what Mrs. Hocking said she found, but it could not be that, no.

Q. Or anything like it?—A. Well, it depends on what anything like it is.

Q. Well, could it be that length and that size?

His HONOR: About 3 inches long.

Mr. CASSIDY: About 3 inches long?—A. Yes, it could conceivably 40 be 3 inches long if you include the wirelike structures.

Q. And the swab?—A. Yes.

Q. What would it have to be if it was not wire? What kind of a structure?—A. I would want a surgeon to explain that.

Q. But as far as you are concerned, you cannot imagine this part?—A. I can imagine it, but I would not give any evidence in Court because it would only be supposition. My witness would not be worth anything.

Re-examined:

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tion.

Mr. SHAND: You were asked about the evidence you gave before about the wound healing. Mr. Cassidy picked out one answer on page 68. 50 (Objected to: pressed.)

Mr. CASSIDY : I ask to be allowed to put the whole of the evidence in of the doctor so that it can be checked. (Objected to by Mr. Shand—pressed).

Mr. SHAND : I propose to read it, subject to Your Honor's ruling—third file, page 68.

Q. This is the evidence :—

“ Q. Would you expect it to close while the infection was still there ?—A. It could close while the infection was still there.

10 Q. Would you expect it ?—A. I would expect it in a long-continued infection of this kind to get closure and opening as the relation between immunity and infection varies.”

Is that what you answered ?—A. Yes.

Q. “ I think you have already stated that if there was a foreign body such as the Plaintiff has described within the thyroid capsule, it would tend to keep the inflammation active,” and your answer was “ Yes ” ?—A. Yes.

Q. “ And would prevent the wound from healing ?—A. No, I did not say that. It would prevent the suppuration from healing, but not necessarily the wound ” ?—A. Yes.

20 Q. “ Would you just have a look at m.f.i.2.” I don't think that has anything to do with it.

His HONOR : No.

Mr. SHAND : However, I will read it.

Mr. CASSIDY : Rather than waste time reading it, I suggest that it be put in.

Mr. SHAND : I will read it.

30 Q. “ Would you just have a look at m.f.i.2. You have seen that object and that diagram before.” That was that rubber thing with the wires. Your answer was “ I have seen diagrams like this.” Then you were asked “ Will you agree that that represents——” There was another diagram too ?—A. Yes.

Q. “ Will you agree that that represents approximately the correct size of a human being's neck at the level of the thyroid,” and your answer was “ It is a very small neck.” The next question was “ Would you suggest it would be very much larger than that,” and you answered “ Some necks, but I cannot follow this ” ?—A. Yes, I remember being shown a diagram that I could not follow.

40 Q. “ You do not remember seeing that before ” and your answer was : “ No, I did not see it before.” Then you were asked : “ Do you suggest that that object before you could remain in the thyroid capsule without an inflammation being constantly kept going.”

His HONOR : That is Exhibit P.

Mr. SHAND : Yes.

Q. You said : “ You will remember that at the last examination I protested against the assumption that an object like this could possibly be there.” You were asked : “ Would you assume that that object could remain within the thyroid capsule without an inflammation being kept constantly active and exuding,” and your answer was : “ No. I could

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not assume this as used in thyroidectomy for any purpose whatever, huge thick wires, and the wires projecting right into the cavity packed with cotton wool or something." His Honor then asked: "That is startling to you," and you answered "Yes." Mr. Reimer then asked: "If that object were inside the thyroid capsule, would it not be perfectly obvious to everybody." Your answer was: "No, not necessarily." Now my friend asked you that the first time in this trial Mr. Hocking said that his wife had some mincemeat, with the idea that there had been some suggestion that it had been introduced into this trial. Now in the Second Trial, page 176—cross-examination:—

"Q. But all along she was on a very light diet?—A. Sometimes she was able to take heavier foods, meat and vegetables at odd periods for illness."

I don't know whether you remember that or not?—A. I don't remember that. It was at the second trial that I was ill, and I had to go away for another reason, but I don't quite remember.

Q. You can take it that that is there. I tender a report in regard to tests.

Mr. CASSIDY: That goes on—"the last three months"—

Mr. SHAND: I will read it:—

"Q. Yes, but I understand you to say that she had difficulty in eating and could not swallow?—A. The worst of that was in the last three months. The most difficult part as far as eating and swallowing are concerned was in the last three months before the tube came out.

Q. And you agreed that bovril and arrowroot was the diet over those months?—A. There may be other food of a light nature.

Q. During those last three months, particularly—"

That is on another matter.

His HONOR: Yes, that is on another matter.

(Blood test over the signature of Dr. Tebbutt tendered and marked Exhibit Q.)

Mr. SHAND: "The calcium content of the blood was estimated at 7.2mgm. per cent"?—A. Yes.

Q. What does that indicate?—A. It indicates that on the 28th October the calcium content of her blood was considerably below normal.

Q. Ten being normal, you have told us?—A. Yes, 10 being normal.

Q. And is that consistent with her story of suffering from tetany prior to 2nd October?—A. It is exceedingly strong confirmation that she had true tetany.

Q. Now you were asked questions in the second trial, at page 271, bearing on the suggestion that her blood was normal at the date of the test. Did you also say when His Honor asked you—page 272:—

"His Honor: Can you say whether a person in a condition described by Mr. Reimer would be expected to exhibit that blood characteristic or not—no matter when it was?—A. I don't think the question permits of the answer yes or no. As it stands it represents a very normal blood count but indicates something that has happened before."

Was that your answer?—A. Yes, that is my answer.

Q. You were asked, in cross-examination still: "The number of white corpuscles set out here is what may be regarded as normal in a healthy person?" and you said, "Yes." You were asked, "The number of red blood cells is what may be regarded as normal in a healthy person?" and you said, "Yes." Then you were asked, "The color index is normal," and you answered, "Yes." You were then asked, "You say there is something on this list that you want to raise?" and you said "Yes." You were asked, "Which particular item is it?" and you said—

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10 His HONOR: I think the Jury better have that document before them.
(Handed to Jury.)

Mr. SHAND: Perhaps I may paraphrase it—The number of white corpuscles set out is normal, and the same applies to red. The white was said to be normal and the red was said to be normal. Then you said that you wanted to raise something, and what you said was—"Reticulocytes were present, he says 'in normal number,' but the presence of reticulocytes suggests to me a previous anæmia."

"A. 'Are stated to be there in normal number' ?—A. Yes, so it is stated.

20 Q. Accept that as correct for the moment. Do you see anything abnormal in a normal number?—A. That is the opinion of the man—

Q. Do you see anything abnormal in that statement?—A. It suggests to me that there has been a previous anæmia.

His Honor: Has every person got reticulocytes in the blood?—A. Not invariably.

Q. Apart from that, you think it is otherwise normal?—

A. A very normal blood."

Now reticulocytes—does that indicate to you previous anæmia? You swore that before?—A. Yes, it does indicate to me a previous anæmia.

30 Q. Now you have been asked some questions about this tube Exhibit P. That has no "V" cut in it? (Handed to witness)?—A. No; there is no diamond.

Q. No diamond?—A. No.

Q. Did you hear Dr. Bell say in previous trials that there was a diamond cut or a "V" cut in the tube used?—A. I don't remember it.

Q. You have said that you were unable to say which side of the lobe of the thyroid the end of the tube was in, but you were asked whether you heard what the Plaintiff said in the box?—A. Yes.

40 Q. That it was put in on the right side. Did you also hear her say that when it was pulled out she got pain right across from the left to the right?—A. Yes, I must have heard that; I don't recall it.

Mr. CASSIDY: When did you hear that?—A. I don't recall.

Q. When did you hear it for the first time, though?—A. I don't recall it.

Mr. SHAND: Now, you were questioned about the inflammation persisting, and you referred to the fact that there were still indications of that at Quirindi? Is that so?—A. Yes.

Q. "30th April—discharging sinus over open scar"?

His HONOR: I have just noticed something in Exhibit Q.

50 The WITNESS: May I explain it?

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His HONOR : You have already given your evidence.

Mr. SHAND : I did not notice it or I would have read it.

Q. In St. Luke's there is reference to Pronticele tablets being given. What was the purpose of those?—A. Pronticele tablets are preparations of that sulphanilimide preparation for the purpose of counteracting tonsular infection.

Q. Was that an early preparation of sulphanilimide?—A. Yes.

Q. Now "7th May—swelling on neck opened 6 a.m.—sinus to be kept open"?—A. Yes.

Q. "13th May—foments to neck two-hourly." Does that indicate the presence of inflammation?—A. Yes, of continuing inflammation and suppuration. 10

Q. On the 14th May—"foments to neck for 10 minutes every four hours"?—A. Yes.

Q. Dressings attended to on the 20th May, and "foments ten minutes every four hours." Would that indicate continuance of the inflammation?—A. Yes. Between the 4th and the 20th May, foments were applied on 14 occasions—sometimes two-hourly, sometimes three-hourly and sometimes four-hourly. On 14 separate days.

Q. Now on the 25th May, "foments applied"?—A. Yes. 20

Q. The last applied 5 p.m.?—A. Yes.

His HONOR : What does "B.O." mean?—A. Bowels open, I presume.

Mr. SHAND : You were asked one question on page 109 of the first trial. By the way, do you remember being asked also to-day as to whether in the hospital report there is a reference to "tube removed" on the 17th March?—A. Yes.

Q. I don't suppose you know who made that report there?—A. No.

Q. Whether it was someone who was there or someone who was not there? 30

Mr. CASSIDY : Do you swear that, professor? (Objected to by Mr. Shand.)

Mr. SHAND : Were you asked this before the question my friend asked—line 39—

"Q. You think that what is in the hospital records can be accepted as accurate?—A. I am assuming that.

Q. Have a look at the day report of 17th March?—A. Yes.

Q. What is it?—A. 'Dr. Bell here a.m. tube removed, three sutures.'

Q. You would not assume that there was any of the tube left after the 17th after seeing that record?—A. I am not assuming that there was. 40

Q. You took the record for other purposes, wouldn't you assume that that record was accurate?—A. That the tube was removed, certainly.

Q. So you would not entertain any idea that there was any of the tube left after a record like that, would you?—A. No, I would not."

I think that completes it. You were dealing on the assumption that the record was correct?—A. Yes. 50

Q. You were asked why you did not go into the box in reply and give the result of your examination of Mrs. Hocking's throat—of her tonsil, and you said that you had heard Dr. Poate state—page 205—

“Q. I don't mean a natural hole ; I mean a hole caused by something coming through the tonsil ?—A. I would not say coming through the tonsil ; I would say coming out of the tonsil.”

In view of that answer, you discussed the matter with your Counsel ?—

A. Yes, and we thought that was sufficient.

10 Q. And in point of fact you have already said that you have recently seen the throat and a probe put in the tonsil ?—A. Yes, I have.

Q. No difficulty in the jury witnessing how the probe goes in ?—
A. No.

Q. You were asked by my friend about stating that the drainage tubes had a number of holes nicked in them. Is that one method of using a drainage tube ?—A. Yes, of getting the material in the wound to come into the drainage tube, certainly.

Q. And in point of fact, in “Johnson's Operative Theraputis”—that is a recognised work, isn't it ?—A. I don't know it.

20 His HONOR : Is that a recognised work, or an unrecognised work when he says he does not know it ?

Mr. SHAND : Not by the Witness, Your Honor.

Q. My friend asked you about your answer to the length of a tube 4 to 6 inches, and you have already explained that your mind was thrown back to cases occurring in Scotland ?—A. Yes ; I answered too quickly.

Q. Did you also say this at the same trial—the first trial—page 111—

“Q. The position is the reverse, in fact it would be very much smaller, where would the 6 inches go to ?—A. I have seen some very large thyroids which required a 6-inch tube.

30 Q. Isn't 2 inches the usual length of the tube ?—A. I said that was a question for a surgeon.

Q. You don't want to express an opinion as to what would be the proper length ?—A. Certainly not in a given case where I don't know the size of the thyroid.”

A. Yes.

Q. “In this case you did not express an opinion as to what would be the proper length,” and your answer was “No” ?—A. That is correct.

Q. You said to my friend that you thought you had dealt with it later on—(Objected to).

40 Q. But you said that you thought that you dealt with it later on. You were asked about the Defendant, Dr. Bell. In fact, was he one of your students ?—A. I think he was in my first year in Sydney.

Q. As one of your students ?—A. Yes, as one of my students.

(At this stage further hearing was adjourned till Tuesday,
7th December 1943, at 10 a.m.)

Further cross-examined :

50 Mr. CASSIDY : I omitted to ask you something yesterday. Will you just listen to what I read. This is the question put to you by Mr. Hardwick : “You remember the Plaintiff described that when she pressed it there was a greenish pus came away ?—A. Yes.” You will agree that that is what you said ?—A. Yes, that would be true, that I did remember it at the time, certainly.

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D. A.

Welsh,

6th

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tion,

continued.

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tion.

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tion,
continued.

Q. "What do you say about that, is that the colour of pus you would expect from an infection as described?—A. It is consistent with the colour of pus that you would expect." That was your answer then to Mr. Hardwick?—A. Undoubtedly if that is on record.

Q. Then Mr. Monahan cross-examined you: "Liquid that passes out of the body as a rule after purgatives is, I suggest to you, brownish colour?—A. After a good dose of oil it is lightish coloured."

Mr. SHAND: I put all that to the Witness yesterday.

Mr. CASSIDY: Do you remember this question: "Will you agree that the course suggested of this particular foreign body is the most 10 improbable course of any that can be imagined?—A. I agree that it is an improbable course, but in the circumstances of this remarkable case a possible one." That is the answer you gave?—A. Yes, I agreed to that.

Q. "You are referring to the remarkable case by putting some reliance on what the Plaintiff herself has told us of her history?—A. Yes?"—A. That is quite true.

Q. "That is, you are accepting the Plaintiff in full, are you?"—A. That does not necessarily follow.

Q. You are accepting her with reservations?—A. That does not necessarily follow. 20

Q. So you don't know what you are accepting of her story?—A. Yes, I am assuming that her story is correct, then it is possible for these events to happen.

Q. But you won't accept the whole of her story?—A. No, I say, assuming her story is correct, then the account she gives is possible.

Q. Even what she says about the tube?—A. Definitely.

Q. And with the wires in it?—A. The wire-like structure, yes.

Q. And 3 inches long?—A. No, not 3 inches long.

Q. And 2 inches long?—A. Just as she described it.

Q. Two inches long?—A. Just as she described it. 30

Q. Two inches long?—A. What is 2 inches long?

Q. The rubber?—A. No, she did not describe it as 2 inches long.

Q. "Leaving that aside, remarkable or otherwise, do you agree this is the most improbable course that the object could have taken in which to travel?—A. No, not the most improbable. Q. What other course is more improbable?—A. Many other courses would be improbable. Q. What more improbable course?—A. It is hard to say." That is what you swore then?—A. Yes, that was obviously a rhetorical question, that is a correct statement.

Q. And do you still adhere to it?—A. Yes, I think that is quite an 40 excellent answer.

Q. "His Honor: You think as a matter of practical politics in this case it could take place?—A. Very highly improbable, but it could pass in that way." Is that right?—A. Well, I had already made it clear that it was the condition of the infection which made it possible.

Q. That is your answer on that occasion—"very highly improbable but it could pass in that way"?—A. I have no doubt it was.

Q. Do you still adhere to it?—A. No, I don't say very highly improbable.

Q. Do you wish to withdraw it?—A. No, I don't wish to withdraw it. 50

Q. Will you adhere to it?—A. I don't know in what context it is given.

Q. It is about the course that this tube took up the neck and out the tonsil.

Mr. SHAND: No, across the neck.

Mr. CASSIDY: Well, across the neck and out through the tonsil. You know that that is what you were being asked about, don't you?—A. I don't know what preceded that question.

10 Q. You may assume what preceded it was the improbability of the way that the tube could get from the position in the neck where it was and out through the tonsil?—A. I have already explained that.

Q. Assume that was asked, do you still adhere to the answer "very highly improbable, but it could pass that way"?—A. I cannot reconstruct the conditions under which that question was asked.

Q. Is that your answer to it?—A. It is not my answer now.

Q. What is your answer now?—A. That it was an improbable course but made possible by the conditions that existed at the time.

20 Q. You are being asked: "In your opinion could a piece of tube and other appurtenances as that pass from the right-hand to the left-hand side of the windpipe?—A. Yes, under certain circumstances it could. Q. Will you agree it could not go behind the windpipe?—A. It would be very improbable." Do you adhere to that?—A. Yes, undoubtedly.

Q. "The windpipe is in immediate contact with the gullet?—A. Separated by connective tissue." Do you adhere to that?—A. Yes.

Q. "Do you seriously suggest that a piece such as that, a body such as that, could by ulcerative process or any other way travel between the windpipe and the gullet?—A. With great difficulty." Do you adhere to that?—A. That is quite true.

30 Q. "At all events impossible without doing irreparable damage?—A. No, I would not say that, certain circumstances arise where it could pass." Do you agree with that?—A. Yes.

Q. "Do you think as a matter of practical politics in this case it could take place?—A. Very highly improbable, but it could pass in that way." Is that your answer?—A. Yes.

Q. And do you adhere to that?—A. Yes.

40 Q. Then we go on about the suppuration. I am going to omit a few paragraphs for the sake of time; will you follow me in this: "There would have to be very extensive suppuration?—A. Yes. Q. That would involve a very gross swelling immediately in front of the windpipe?—A. A very obvious swelling"?—A. I want to know what preceded all that—yes, I was asked, Your Honor, if this body described by Mrs. Hocking could go in front of the windpipe and Mr. Reimer pointed out that the distance from the skin to the windpipe is little, and I said it was very little in healthy conditions, but I said that it is very loose, and then I was interrupted, and I was going on to say, or I think I was going on to say, that in the conditions that obtained in this case there would be a good deal of pus and inflammatory swelling in front of the windpipe so that the object could pass in front of the windpipe.

50 Q. A very obvious inflammatory swelling that the doctor could not miss, I suppose, if it were in front of the windpipe?—A. Yes.

Q. No skilled observer could miss it?—A. No.

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tion,
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Q. And pus there?—A. Yes.

Q. And only a matter of the doctor making an incision to get it out?
—A. There was pus there. It is in the hospital records. "You agree that in normal healthy conditions you can feel the windpipe?—A. Yes, quite easily." There were no normal healthy conditions in this case.
"Q. Do you agree that an object of that size and description, to travel from one side to the other by travelling in front of the windpipe the patient would be very obviously in need of medical attention?—A. Not necessarily." I had already objected to the size and description of the object.

His HONOR: You had already protested against the size and 10 description of the object? What was the protest related to? Because I don't quite follow your answer then. If the size and description of the object was as put to you?—A. I would not accept it.

Mr. CASSIDY: That is it could not go?—A. No.

Q. Now you are up to the part I am reading?—A. Yes. That is quite true, there was very extensive suppuration.

Q. How long are you saying there was extensive suppuration around the neck?—A. During the greater part of her residence in St. Luke's Hospital.

Q. And how long after that?—A. During her residence in Quirindi 20 Hospital.

Q. Do you agree it ended in June 1938?—A. No.

Q. Do you say it went past that? When was it gone, according to you?—A. According to Mrs. Hocking's evidence it went on for quite a long time.

Q. Until when?—A. Until the abscess burst.

Q. Right from June 1938 up until the abscess burst?—A. Yes.

Q. Extensive suppuration are the words. You have not heard one word of suppuration from June 1938 to October 1939, have you?—A. No because—

Q. You have not, have you?— 30

Mr. SHAND: He has answered the question, and he wants to say something.

Mr. CASSIDY: What do you want to say?—A. There was very little discharge from the wound after that, I understand, after June 1938.

Q. "That would involve a very gross swelling in front of the windpipe?—A. A very obvious swelling"?—A. Yes.

Q. Because if you had a tube 2 inches long it moves in a fluid of pus, does it not?—A. Yes, that is the only way it could move.

Q. And that means it gets into a pack and has to enclose it right round?—A. The pack is not 2 inches in thickness. 40

Q. No, but if the pack of pus encloses it, it makes the width of the pack the width of the tube plus something, and it must be at least 2 inches long?—A. Well, the pack was very much more than 2 inches long.

His HONOR: The pack was longer than 2 inches?—A. The pack was the two capsules of the thyroid from which the thyroid had been removed and which were occupied by pus.

Mr. CASSIDY: Do you suggest that we would have that much pus there, a cavity full of pus?—A. Yes, I would suggest there was a large amount of pus there.

Q. And if the tube is going across in front of the windpipe it could not be missed by the doctor or a nurse?—A. It would be a marked swelling.

His HONOR: A very obvious swelling?—A. Yes.

Mr. CASSIDY: "It would come out a long way"—that is a very practical question we can all understand—and your answer was "Yes"?—A. That is the swelling would come out a long way—yes, in front of the windpipe.

10 Q. And it would be out like an abscess?—A. No, it was not an abscess.

Q. Although it is coated with pus it is not an abscess?—A. No, it is a suppurating wound.

Q. Do you agree with Dr. Poate, for that tube 2 inches long to move, that it would form a swelling as big as that portion of your hand closed like that? (Objected to: allowed)—A. Dr. Poate, I understand, was referring to the tonsil.

Q. If it had a swelling it would be a swelling as big as that part of your hand with the fingers closed?—A. No.

20 Q. You heard him swear it?—A. I don't recollect him saying that. I heard him saying something like that with regard to the abscess of the tonsil.

Q. And do you agree it would be so?—A. I agree it would have to be large enough to contain the foreign body.

Q. And it would have to be something like that size?—A. Not necessarily.

Q. How large do you suggest?—A. A little larger than the foreign body.

Q. It cannot shoot out, can it?—A. Yes, I think it can.

30 Q. Isn't it for days before a foreign body emerges, just poking out?—A. No, not necessarily.

Q. You have felt a bit of casing left after a tooth?—A. No.

Q. It is there sometimes for 48 hours?—A. That is not a correct analogy.

Q. You have felt a splinter or a grass seed coming out?—A. That is not a correct analogy.

Q. The pus carries it and drives it out, doesn't it?—A. No, not necessarily.

Q. What does, then?—A. It may force its way out because it has a sharp end.

40 Q. But you have had them, haven't you, when they came up in a lump and are surrounded by pus?—A. Yes.

Q. And isn't the suppuration just the same as you saw in this case, being the movement that forces it out?—A. It may come out all at once if the abscess bursts.

Q. But you get plenty of premonition and warning of it if it does, don't you?—A. You are quite erroneous in your statement.

50 Q. "Do you agree it would be perfectly obvious to any skilled observer that there was something very seriously amiss?—A. If an event of this kind happened the object left behind might slip over quite readily and rapidly." Did you say that?—A. At what stage is that?

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tion,
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Q. Following on, you have read the whole context—"It would come out a long way, do you agree that it would be perfectly obvious to any skilled observer that there was something very seriously amiss?—A. If an event of this kind happened, the object left behind might slip over quite easily and rapidly"—A. Yes.

Q. And you adhere to that statement?—A. In the circumstances of the case, yes.

Q. So rapidly and quickly that a doctor or nurse would miss it?—A. Could miss the slipping over, yes.

Q. Are you serious?—A. Definitely.

Q. "That object which is 2 inches long?—A. I don't know about that"—A. Exactly, that is what I have always said.

Q. It could not be 2 inches long?—A. That is not what I mean.

Q. You just said that?—A. No. Then he went on: "That is what I am asking you about, could an object of that size?—A. I said an object of that size with two wires on it, that would make it very obvious."

Q. I am coming to 2 inches of rubber, an object 2 inches long that is rubber only, could that slip over easily as you suggest?—A. As far as the rubber is concerned 2 inches or 1½ inches would not make that much difference with regard to slipping over.

Q. Why did you say "I don't know about that"?—A. That was in regard to the object.

Q. "That object which is 2 inches long?—A. I don't know about that"—A. I did not know about 2 inches long.

Q. If it were 2 inches long only, could it easily and rapidly slip over?—A. Yes.

Q. If it were 2½ inches, could it?—A. I am not going to go into that.

Q. Why 2 inches?—A. Because you asked me 2 inches.

Q. Is that right that 2 inches it could slip over but over 2 inches it could not?—A. If I say 2½ inches you will say "Could 3"?—A. Yes.

Q. I want to get at the truth in this matter?—A. So do I.

His HONOR: Mr. Cassidy is quite entitled to ask the question if he wishes, and that does not preclude you from answering the first one if you can.

Mr. CASSIDY: I am suggesting that the answer that 2 inches could slip over is not a true answer? (Objected to: disallowed.)

Q. I want to put to you this: I am suggesting to you that if we limit the length to 2 inches for the moment, a tube of 2 inches, that that could not slip quite readily and rapidly and I am limiting it to 2 inches at the moment?—A. Yes, it could quite readily and rapidly if there was sufficient pus to carry it.

Q. It would be a stream, wouldn't it, for that to happen?—A. No, it could happen along where the pus was present.

Q. How long would it take?—A. As I say, quite readily and rapidly.

Q. Half an hour?—A. It might.

Q. How far would it travel?—A. From one side to the other.

Q. How far would that be?—A. Across the windpipe.

Q. It is moving like a caterpillar across?—A. Yes.

Q. So the movement would be noticeable almost?—A. If anyone was there to notice it.

Q. The patient herself would notice it, wouldn't she?—A. She might not.

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Q. Movement in pus becomes very noticeable and very painful?—
A. No, not necessarily. Movement of a body in an infected purulent wound would not necessarily be painful and the neck was swathed in hot fomentations and all sorts of things.

Q. If it were swathed in hot fomentations that is all the more reason why you would notice it?—A. No, all the more reason why she would not notice it.

Q. The last hot fomentations were in 1938, you may take it?—
A. I don't know that it is.

10 Q. I will withdraw that for the moment. Now we come to the next part. "That is what I am asking you about, could an object of that size make a very obvious swelling with gross suppuration in front of the windpipe?—A. An object of this size with two wires on it would make it very obvious"?—A. Yes, but I had already protested about that object.

Q. Would the two wires make that much difference?—A. Yes, definitely, because the object I was shown had real wires and in no circumstances could that ever be used, and then I was asked if that passed over would it be obvious and I said "Yes."

20 Q. Supposing it was a wire structure as shown, would that be able to pass quite readily and quite rapidly?—A. Yes.

Q. Would the swab in it make any difference?—A. I would like to correct that statement that I made just now. The wirelike object might not have been so rigid at that time if they were present. The swab would not make any difference.

Q. When do you suggest it would have to be, shortly after it entered the wound?—A. I don't know what these wire-like structures were.

Q. Why do you suggest that they might not be so rigid?—A. Because they might not be wire.

30 Q. What would make them more rigid if they were not wire?—
A. A long stay in the body.

Q. What would make them more rigid?—A. I am not suggesting anything.

Q. What do you suggest would be more rigid?—A. I don't suggest anything. It is outside my province.

Q. Have you ever said that the approach was that the movement of a tube or of this foreign body would be a gradual process?—A. Yes, I meant up the neck it would be a gradual process.

40 Q. Up the neck?—A. Yes.

Q. You meant up the neck?—A. Yes.

Q. That does not refer then to across the neck?—A. No, not necessarily.

Q. Did you say this to Mr. Shand yesterday: "Is there any particular likelihood whether it would travel up or down?—A. In my experience of the infections of the neck the infection usually spreads upwards. Q. Has gravity anything to do with it?—A. Very little influence in the neck." That is right, is it?—A. That is quite correct.

50 Q. And that is a considered statement?—A. It is a statement based on my experience, yes.

Q. And you considered that statement fully before you made it?—
A. Yes.

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Q. Was the evidence you gave on the second trial well considered too?—A. Yes, except that I was not very well on the second trial, that is all.

Q. You have had no additional experience of foreign bodies in the neck since the second trial, have you?—A. No, not foreign bodies in the neck.

Q. I want to read what you said last time. "Supposing you have inflammation within that capsule which is forming pus and acute inflammation would you agree the natural and most probable line of progress of that would be downwards?—A. Undoubtedly the most probable direction would be in the direction influenced by gravity and by the opening of the 10 fascial planes by any spread of the inflammation." Was that answer correct—that is what you said?—A. The answer is correct to that particular question, but that is not the question you asked me before.

Q. That is not the question?—A. No.

Q. "Undoubtedly the most probable direction would be the direction influenced by gravity." Now, did you say yesterday, in answer to this question: "Has gravity anything to do with it?—A. Very little influence in the neck"?—A. Those questions and answers have reference to two different stages of the infection.

Q. What one is that referring to?—A. To the early stage where the 20 pus was in the thyroid capsule.

Q. So that applies to the early stage when the pus was in the capsule?—A. Yes.

Q. And then gravity would have undoubtedly a great influence, is that right?—A. Undoubtedly the pus would collect in the lower part of the thyroid capsule.

Q. And undoubtedly gravity would have a great influence?—A. For that reason. I mean the pus would collect in the lower part of the thyroid capsule because of that.

Q. And gravity would have a great influence?—A. It would collect 30 there for that reason.

Q. And on the foreign body too?—A. It would lie in the pus.

Q. Do you not remember me putting to you yesterday that the foreign body, being in the pus there, would go down into the mediastinum, do you remember that question?—A. Yes, and I did not agree that that is the probable course.

Q. And do you agree with me this morning that it is the probable course?—A. No.

Q. The improbable course then?—A. A less probable course than 40 spreading up the neck.

Q. A less probable one than spreading up the neck?—A. Yes, undoubtedly, and in fact it did not happen in this case. (Mr. Cassidy objected to the last phrase—allowed.)

Q. That is only if you accept first of all that the tube was left in there?—A. No, we are speaking of the pus.

Q. "If the infection had involved the deeper tissues the infection will probably continue until the suture material which is undissolved has either been dissolved or discharged?—A. If the infection were sufficiently severe and the bacteria introduced sufficiently virulent as to cause actual suppuration that would be true." Do you agree with that?—A. I do. 50

Q. "Do you agree with the statement that the chief trouble with these infections is the sinus which persists until the necrosed tissue and

unabsorbed suture and ligature material has been completely eliminated ?
—A. Yes, as a general statement I agree with that ” ?—A. Yes, as a
general statement I agree with that.

Q. “ Do you agree with this, that unfortunately unabsorbable suture
material become infected at times. I will read you the passage : ‘ Do you
agree that with the very best suture material that can be employed, whether
it is silk or gut, sometimes you get an irritating effect from that suture
material ’ ?—A. I quite agree with that ” ?—A. Yes, I quite agree with
that.

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10 Mr. SHAND : You were asked and you gave evidence as to gravity
having little effect on the neck ?—A. Little effect on the spread of
suppuration.

Q. Do you remember hearing Dr. Poate swearing at the first trial :
“ Then as the cavity enlarged I suppose at any rate if the person were
sitting with the body in a vertical position it would tend to go down
at the bottom, there would be no tendency to rise upwards.” And do you
remember him answering to his own Counsel : “ I don't know that gravity
comes into these things ” ?—A. Yes, many parts of Dr. Poate's evidence
with which I was in accord, and that was one of them.

20 Q. Do you remember my friend asking you a question to which you
said you did not know the context and you answered when the question
was asked : “ Do you think as a matter of practical politics in this case it
could take place ?—A. Very highly improbable, but it could have been in
that way.” Now, the question that “ in that way ” depends upon is
‘ Could it by ulceration process travel between the windpipe and the
gullet,’ and that is what you said was very highly improbable ?—A. Yes.

Q. Had not your suggestion always been that if it had been on the
right-hand side and had to pass it would have been a passing in front of
the windpipe ?—A. Yes.

30 Mr. CASSIDY : That will entitle me to put in the whole of his
evidence.

Mr. SHAND : My friend could have it read, but he can only have
such portions read as tend to contradict that.

(Witness retired.)

No. 14.

EVIDENCE of George Stanley Thompson.

Sworn, examined, deposed.

No. 14.
G. S.
Thompson,
7th
December
1943,
Examina-
tion.

To Mr. SHAND : I am a legally qualified medical practitioner carrying
on my practice at Randwick and Macquarie Street. I have been practising
40 in Sydney since about 1915. I graduated in London at the College of
Surgeons and the College of Physicians in 1906. I am a Licentiate of
the Royal College of Physicians, 1906, and a Fellow of the Royal College
of Surgeons, England, 1911. After graduating in 1906, and after taking
my Fellowship degree I had some hospital experience in England and
South Africa. In England I was at St. Mary's Hospital, London, the
East End Hospital, the East Suffolk & Ipswich Hospital, the Royal Albert
Hospital, Plymouth, Johannesburg Hospital and the hospital at Capetown

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and the Kimberley Hospital. I had resident appointments at two hospitals in South Africa. I was senior resident medical officer at St. Mary's Hospital, London, that is one of the big teaching hospitals. In Sydney I have practised both as a surgeon and as a physician.

Q. Have you performed the operation known as thyroidectomy?—

A. Occasionally.

Q. And have you seen it performed?—A. Frequently.

Q. And have you made a particular study of the thyroid, infection and otherwise?—A. I would not say that I have made a particular study of it.

Q. But you have made a study?—A. Yes.

Q. And have you read quite extensively on the subject?—A. Yes.

Mr. SHAND: Have you got a copy of the St. Luke's Hospital records?—A. I haven't got a copy, but I have got a condensed statement. I have made a study of those records.

Q. And the Quirindi Hospital records?—A. Yes.

Q. We know that from the records the operation was performed on the 15th March 1938?—A. Yes.

Q. And we have been told it took 2½ hours?—A. Yes. An hour is quite an average time. There was some complication in this case, with the left superior thyroid artery. That is right near the top of the thyroid cartilage. The top of the thyroid gland is near the upper border of the thyroid cartilage. The left artery is on the left-hand side about this position (indicating).

Q. Would that be just about where the top would be?—A. Yes, in an enlarged gland—just about there (indicating).

Q. It is stated that on the 17th March the tube was removed. I want to deal with the history following the 17th. It appears that on the 17th and later dates—have you noticed the temperature of the Plaintiff?—A. Yes—the so-called remittent temperature. That means something—to me as a medical man—infection. On the 20th there is a report of some thick purulent discharge expelled. That indicates a moderately severe infection, of course aggravated by the locality in this case. It would be worse here than usually in other places, but I would say that it was a moderately severe infection—a staphylococcal from the skin. There is a further report—“Complaint of cramp in fingers.” That is indicative of commencing tetany. The cramp was due to the spasm of the muscles—the intrinsic muscle of the hand.

Q. We find that on the night of the 20th the wound was probed: “Fair amount of sero-purulent discharge.” What is the instrument used to probe?—A. A probe is an exploring instrument for feeling an object.

Q. Well, then, on the 21st there was a swinging temperature. You have already referred to that?—A. Yes, a remittent temperature.

Q. And on the 21st—the night report—report of “Wound probed,” and then “Cough troublesome”?—A. The cough started directly after the operation, and according to the record on the 16th. On the 15th she was semi-conscious, but we do not know exactly when that cough first manifested itself when she recovered consciousness. That cough has great significance to me from the 16th right up to the 2nd October. It suggests to me that the superior laryngeal nerve was being irritated, or it could also suggest that there was something in the vicinity there

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irritating the larynx on the left-hand side. It would be consistent with a foreign body ; it could easily be explained as such.

Q. Then the purulent discharge continued—it is reported on various days up to the 11th April. That is 26 days after the operation ?—A. Yes.

Mr. CASSIDY : Will you repeat that ?

Mr. SHAND : According to the hospital records the discharge continued at any rate up till the 11th April—that is 26 days after the operation. Has that got some significance ?—A. Yes ; it has got two points of significance in regard to the sutures. If a discharge is due to 10 sutures, the initial amount of discharge may be moderate, but it soon becomes reduced to a very small amount so that it just perhaps stains the dressings, and if that discharge is due to chromic catgut—I mean raw catgut, that catgut is very quickly absorbed in seven to ten or fourteen days, but even being liberal, three weeks.

Mr. CASSIDY : Did you say chromic catgut ?—A. Yes ; I said that, but I meant raw catgut.

Q. Do you say raw catgut was used ?—A. I don't know what was used, but I think it was one of the things that was used. (Objected to by Mr. Cassidy—pressed by Mr. Shand.) (Shorthand notes read.)

20 His HONOR : Now ask the question, Mr. Shand, so that I can rule on it.

The WITNESS : That is not quite correct, that I did not know what was used. I do.

His HONOR : Ask the question, Mr. Shand.

Mr. SHAND : You have stated the time in which ordinary raw catgut would be absorbed ?—A. Yes. It is called “seven to ten-day catgut.” That is quite a common expression in the profession.

Q. What is chromic catgut ? (Objected to—pressed.)

30 His HONOR : The question is “what is chromogut,” and I reject it. (Mr. Shand stated that this was a matter that was of some importance, and he would have to consider whether he could give any further evidence. At the suggestion of His Honor the Court then took the usual morning adjournment.)

Mr. SHAND : There are certain questions that I will ask, and I propose to tell the witness not to answer them as they may be objected to.

Q. Don't answer this. The question is this—in an operation of this type, what materials are used in suturing the wound, that would include a severed artery, and particularly are silk and chromogut used ? I am putting it in leading form. (Objected to.)

40 Mr. CASSIDY : I want to make an additional objection on the voir dire.

Cross-examination on the voir dire :

Mr. CASSIDY : You have not done a thyroidectomy operation for 20 years, have you ?—A. For some time.

Q. For 20 years ?—A. I don't know.

Q. For 20 years ?—A. I don't admit that.

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Q. How many years?—A. I don't remember.

Q. Is that right?—A. Yes.

Q. You have never seen any other surgeon operate for 20 years, have you, on a thyroidectomy?—A. Not in Sydney.

Q. You have never seen any other surgeon operate for 20 years on the thyroidectomy?—A. I did not say that.

Q. Not in Sydney?—A. Not in Sydney.

Q. And the surgeon you saw operate was where—the last one?—
A. St. Mary's Hospital, London.

Q. How long ago was that?—A. Thirty-three. 10

Q. Thirty-three years ago?—A. 1933.

Q. That was in England?—A. Yes.

Q. But New South Wales, or Australia rather. You have never seen one?—A. I did not say that.

Q. Well, did you?—A. I don't remember. I often used to go into the operating theatres.

Q. You would remember, wouldn't you, if you saw one?—A. No, you see so many operations.

Q. Well, there are none that you can remember?—A. I can't 20 remember.

Q. And of course you know that surgeons have their own technique, do you not?—A. Yes.

Q. And that there is a different technique with different surgeons?—

A. Well, according to you, it was.

Q. Answer the question. There is a different technique in some respects among the surgeons?—A. Yes.

Q. And you have heard Dr. Bell's evidence that he does not use chromic gut? (Objected to by Mr. Shand; pressed by Mr. Cassidy; admitted.)

Q. That is that he does not use and did not use it in this case?— 30
A. No, I don't know that.

Q. But you heard him say that?—A. No.

Q. Do you remember?—A. No.

Q. You just don't remember?—A. No.

Q. You don't remember either way?—A. I don't remember either way.

Mr. CASSIDY : I add that to my other objection.

Re-examination on voir dire :

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ation.

Mr. SHAND : You have already said that you have made a study 40 of text-books on thyroidectomy and the thyroid?—A. Yes.

Q. Here it is alleged that there is a foreign body? (Objected to by Mr. Cassidy.)

The WITNESS : In answer to the previous question—text-books are articles.

Mr. SHAND : And articles?—A. Yes.

Q. By prominent medical men?—A. Yes.

Q. And is there any great difference in a foreign body in the neck and in other parts of the body?—A. As regards general principles, no.

The only difference is the way in which they may be modified by locality. In regard to the general principles, the general principles are the same.

Q. And would there be any difference, for instance, in the treatment of severed arteries?—A. No, that is essentially the same wherever it occurs. And in regard to severed arteries, very often silk is used to tie them up so that the ligature won't slip.

Q. Have you performed many operations on different parts of the body?—A. Yes.

10 Q. And you say in regard to these matters that there is no difference in principle?—A. In regard to foreign bodies, do you mean?

Q. Yes?—A. No, the principle being this—(Objected to).

His HONOR: That is not an answer, that is a speech. Don't make speeches—answer questions.

Mr. SHAND: That is all I want to ask on the voir dire. (Mr. Shand addresses His Honor on the voir dire.)

Q. You did perform many operations in regard to foreign bodies?—

A. I would not say many, because they are not so frequent—

Q. But you have performed operations in regard to foreign bodies?—

A. Yes. It does not matter whether it is thyroidectomy or not.

20 (Mr. Shand further addresses His Honor.)

His HONOR: I reject the question.

Mr. SHAND: I am putting this question to you. Don't answer it for the moment—

Mr. CASSIDY: Well, they could be written down.

His HONOR: They must be on the notes.

Mr. SHAND: Don't answer this question. Having heard the Plaintiff's descriptions of this object and having perused the hospital records—having regard to sutures and that type of thing, and scars, have you formed an opinion on your expert knowledge as to what constituted the wirelike structures? (Objected to.)

30 Q. Have you formed an opinion. Don't say what it is?—A. Yes.

Q. What, in your opinion, was that structure? (Objected to.)

His HONOR: That is covered by my previous ruling.

Mr. SHAND: Now, I am going to ask you this question, and do not answer it again. This is on a slightly different basis. Assuming that an artery such as the superior thyroid artery had been severed during an operation, as an expert, would you expect the ordinary raw catgut to be used? (Objected to; rejected.)

40 Q. The next question is on the same principle. Don't answer this. I think you will be able to answer the first part. Have you knowledge as to whether silk that is used for ligaturing—have you knowledge as to whether such silk dissolves or does not dissolve in the human being?—A. I have knowledge, yes.

Q. What is your answer? Don't answer this question. (Objected to.)

His HONOR: That is covered by my previous ruling—rejected.

Q. Have you knowledge of the effects of serous fluids and pus on silk, as to whether it makes it stiff? Have you knowledge?—A. Yes.

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Q. Don't answer this question. What is your knowledge? (Objected to.)

His HONOR: That is covered by my previous ruling—rejected.

Mr. SHAND: Have you knowledge whether chromogut would or would not dissolve in the body within a period of, say, 18 or 19 months?—

A. Yes.

Q. What is your knowledge? (Objected to; same ruling.)

Q. Are you conversant with the colour of chromogut?—A. Yes.

Q. What is the colour? (Objected to; same ruling.)

(Notes made by Dr. O'Hanlon tendered: objected to: rejected.) 10

Q. You have heard the Plaintiff give evidence?—A. Yes.

Q. You have read the record of St. Luke's and Quirindi Hospitals?—
A. Yes.

Q. Have you formed an opinion of what brought about the Plaintiff's condition of sickness?—A. Yes.

Q. What, in your opinion, as a medical expert, brought about that condition?

Mr. CASSIDY (by permission): The tetany that followed enters largely into the opinion that you form?—A. Partly.

Q. Very largely, does it not. (Objected to)?—A. Yes. 20

Q. Following the operation I mean; the alleged tetany?—A. You call it "alleged"?

Q. Mr. Shand objects to me calling it tetany. Whether it is alleged or real tetany, that forms an important basis of your conclusion?—A. I don't know any difference between real tetany and unreal tetany.

Q. Any kind of tetany. You take tetany largely as the basis of your conclusion do you not?—A. Yes, it forms an important ingredient.

Q. It is the important ingredient is it not?—A. I would not say that.

Q. Is it a minor ingredient?—A. No, an important ingredient. 30

Q. You have admitted that you do not put yourself up as an expert in tetany?—A. I am not an expert in tetany, although I know tetany.

Q. You have never seen a case of adult tetany?—A. Not adult, but I have seen plenty of cases of tetany, and they are the same whether they occur in an adult or a child.

Q. The only tetany you have ever seen has been in children in England?—A. Yes.

Q. When was that?—A. A good many years ago, I could not say how many.

Q. Thirty or forty?—A. Might have been. 40

Q. That being due to malnutrition?—A. Generally speaking, yes.

Q. You have never seen the effect of massage on tetany?—A. No, and I don't know anyone else who has.

Q. But take you yourself for the moment?—A. Well, no. I have not seen the effect of massage, but in the records it says that she was massaged with a benefit.

Q. You have never seen the effect of massage on tetany?—A. No, I have not.

Q. You have never seen any tetany which has been due to disease of the parathyroid glands?—A. No, anyhow it doesn't make any difference 50

whether due to disease of the parathyroid glands or not. It is all due to calcium deficiency.

Q. The only text books you have read have been since this case started?—A. Oh, no.

Q. I say since the case started?—A. Certainly not.

(Argument ensued on the admissibility of the question: "What in your opinion as a medical expert, brought about that condition," see eighth question, page 316.)

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To Mr. SHAND: I don't specialise. That is the point which came
10 up last time, and I objected to the word "expert."

His HONOR: You said yourself "I am not an expert." (Evidence of witness previous trial referred to)?—A. In the sense that an expert is a person who is expert in his work, in other words, who devotes his whole time to it or specialises in it. In that sense I am not an expert.

Mr. SHAND: But you have studied it?—A. I have a practical experience of it, and I have studied it, yes.

I have made a special study of tetany from the text books as I put before.

(Question: "What in your opinion as a medical expert
20 brought about that condition" still objected to; allowed.)

The WITNESS: I think I remember the question, yes, the drainage tube left in the left thyroid cavity of Mrs. Hocking.

To Mr. SHAND: For that I also partly rely on an examination I made of her neck. I say "left in the left side." I have put forward that opinion throughout, I have insisted on that throughout. I know the structure of the neck. I heard Mrs. Hocking give evidence that the tube came out on the right side and also she had pain across the neck when it was withdrawn on the right side.

Q. Having in view your knowledge of the anatomy of the neck,
30 what do you say. You heard her say that she had pain across the neck when it was withdrawn from the right?—A. She had a stinging sensation on the left side of the neck and when she turned the neck after the operation she felt the tube on the right side, towards the right side, extruding.

Q. From your knowledge of the anatomy of the neck, what do you say. Could a tube which was placed on the right side effectively go into the right lobe?—A. Not effectively because it would be kinked. It would have to go round the muscles and consequently be kinked.

I will describe what I mean. This is the piece of tubing and this is what would happen. (Indicating to Jury.) It would tend to be kinked.

40 Mr. CASSIDY: How long?—A. It does not matter how long. If it goes around this muscle (indicating) it must be kinked.

Mr. SHAND: Why is that. Assume it goes in the right side centre?—A. Here you have this muscle you see (indicating) sticking out of people's necks when they turn around. There are two other muscles underneath here. To get into the thyroid cavity it has to go underneath those three muscles. (Indicating.)

Q. If it went into the same capsule—?—A. It would kink or tend to be kinked. No prudent surgeon would do a thing like that.

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Q. How would it go then?—A. It would be gripped by the muscles and would still have to go round these two other muscles. (Indicating.)

Q. Assume it goes through the skin on the right side. Would there be any difficulty or kinking if placed across?—A. No, that is why it goes obliquely. The outer end is on the right side and the inner end on the left side.

Q. In Johnson's "Operative Therapeutics" is there an illustration of the tube being inserted?—A. It is put in on the left side, that is through the skin. The far end is on the opposite side to the inner end.

Q. In this case it came out?—A. On the left side. In Mrs. Hocking's case it came out on the right. 10

Q. And therefore, it would go to the left lobe?—A. No the left cavity.

(The textbook referred to as "Johnson's Operative Therapeutics," Vol. 3, page 304.)

I heard Dr. Bell say when giving evidence he did not know which cavity it went in.

Q. Another of the matters you said formed part of the ground work of your decision was the state of the lady's throat, tonsil?—A. Yes, the neck first of all.

Q. Will you show what you mean to the Jury?—A. (Plaintiff comes forward.) You sometimes see this better in profile than face to face. There is a distinct dimple there (indicating) just over the middle of the left sterno mastoid muscle. 20

Q. What level is that?—A. It is opposite the thyroid cartilage. Furthermore, the sterno-mastoid muscle, above there (indicating) it is not so noticeable as on the other side, although it has been retracted.

Mr. CASSIDY : You say that is where the tube went in? (Objected to)?—A. I did not say anything of the kind. I say that is where the tube was lodged. The scar is still tender. One dimple is, well it is still tender and there is a little limitation of movement to the left and the sterno-mastoid muscle above the dimple is obscured on that side (indicating). You can see it sticking out on the right side but above the dimple you do not notice it readily. It suggests that the scarring which had occurred in the vicinity of the left thyroid capsule has caused some adhesions. Another thing; we know as a matter of experience that things are nearly always more extensive when you get down on to the part. 30

To Mr. SHAND : I examined Mrs. Hocking's tonsil.

Q. You examined it on the second trial?

His HONOR : When did you make the examination?—A. I don't remember the date. It must have been two or three years ago, I suppose; oh no, I examined the tonsil before the first trial. 40

Mr. SHAND : Before the second trial?—A. No, before the first trial, but I did not give evidence.

Q. How many examinations did you make?—A. Since that time I have made several examinations—I suppose half a dozen.

Q. When you first examined the tonsil what did you see?—A. Nearly at the upper end of the left tonsil there was a punched-out canal. It was a quarter of an inch in diameter and three-quarters of an inch long, going down to the pharyngeal wall through the tonsil.

I ascertained the length with a probe and glass. I have the glasses I used. I used this afterwards, after I got the length of the probe, this is the probe I used. I used these (indicating) to see what the diameter was, to see what I could get in. I put them in, all three. The bent end went in. They went up to the hilt $\frac{3}{4}$ -inch.

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Q. I think you were saying something about above the canal?—

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A. Yes, there would still be left a small piece of tonsular tissue. Going from that to the remaining part of the tonsil below there were three
10 strands of tissue.

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Q. What does that indicate?—A. Clear evidence of sloughing, that is to say, the tonsular tissue, except that portion, had been killed in some way or other and had sloughed away.

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Q. It is consistent with an abscess having burst through and consistent with a rubber tube having come through. There is only one strand of tissue now. It has considerably retracted down now to when I examined it. At the time I examined it, if it was caused in the way she said, it would have been considerably larger in diameter, perhaps three-eighths of an inch. To this day the probe will go through the tonsil, down to the
20 pharyngeal wall. I do not know that it is as deep now. It has become reduced in diameter and length. I can show with the probe. I can put the probe into it. I will do it with a probe.

(Mr. Shand wishes Jury to see this probe go into the tonsil to indicate where the hole is.)

Agreed to by Mr. Cassidy.

His Honor feels doubtful whether it should be allowed and says he will consider the matter during the luncheon adjournment.)

Q. Could this punctured hole through the tonsil be caused by any natural cause?—A. I said "punched out." I did not say "punctured."

30 His HONOR: What is the difference?—A. If you punch a thing out a distinct canal would remain.

Mr. SHAND: There was some suggestion about crypts by my friend?—A. I have never seen such a crypt in my life. They were all small things. I have never heard of, read or seen such a thing and I have seen a few thousand tonsils in my time, I suppose. It is an absurd suggestion.

Q. In regard to the St. Luke's Hospital, I put it to you that the discharge continued as indicated from the records for some 26 days after the operation. You have given your opinion on that. Would you expect that in any normal case of operation for tetany—for thyroid, I should
40 say—(Objected to).

(Argument ensued on objection. During argument Witness said "I have done operations for cancer of the neck in that part.")

(Luncheon adjournment.)

At 2 p.m.

His HONOR: At this stage I don't think to look at something in a person's throat is a thing which laymen, without technical experience, could appreciate. As I have already said, I don't think I could come to any real conclusion on appearances, but if, when we have heard the whole evidence, it is made to appear that the layman could see something

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that would help him, I would be very pleased to have it done, but not at this stage. Your application, therefore, is rejected at this stage, Mr. Shand.

Mr. SHAND : Assuming you put the probe in that punched-out hole, as you call it, could anyone see that go in to the depth that you indicated ?—A. Yes.

Q. It is just an ordinary probe which is bent, is it ?—A. Yes, this is bent. They are usually straight.

Q. It is bent for the purpose of this position ?—A. Yes.

His HONOR : It looks as though it has been a needle at some time. 10
It has an eye in it ?—A. Yes, some of them have eyes and others have not.

(Probe tendered and marked Exhibit S.)

Mr. CASSIDY : Do I follow that is the thing that you say you used to put into the tonsil ?—A. Yes.

Q. Was it bent like that when you used it, or was it bent after you put it in ?—A. No, when I used it.

His HONOR : It is in the condition now in which you used it ?—A. Yes.

Mr. CASSIDY : Is that the way it was bought ?—A. No, but I bent it. 20

Mr. SHAND : In considering the hospital records you have seen that the tube was removed on the 17th March ?—A. Yes.

Q. You have seen the hospital records and you have heard the Plaintiff's evidence of a statement by the Defendant that it was not working properly ?—A. I don't know that I heard that in this trial.

Q. You can take it that it was given. From the records can you see any indication of that in regard to the tube ?—A. Yes.

His HONOR : Indication of what ?—A. That the tube was not draining properly.

Mr. SHAND : What was that ?—A. On the 15th, at the time of the 30
operation, there was a considerable amount of discharge and the next day there was very little and the following day, the 17th, the sutures—
(Objected to).

Q. What is the study you have made, you have called it tetany, does it deal only with tetany ?—

His HONOR : Is that the fact, that there are no text-books on tetany ?—A. I don't know of any.

Mr. SHAND : What subjects do these text books deal with ?—A. The principles and practice of medicine includes all kinds of diseases, including tetany. 40

Q. The operation to the thyroid ?—A. That would be in a surgical text book.

Q. You have performed a great number of operations ?—A. Yes.

Q. And is the insertion of a tube peculiar to operations on the thyroid ?—A. Certainly not, any part of the body.

Q. And have you had long and frequent experience with regard to tubes ?—A. Plenty of it.

Q. And inserted in wounds made at operations ?—A. Yes.

(Argument ensued as to Mr. Cassidy's previous objection.)

His HONOR : I must say with some doubt I will allow the question.

Mr. SHAND : You mentioned the fact ?—A. On the 16th, very little exudate was coming out, on the 17th sutures were removed ; can I say the presumption ?

Q. What is your experience as an expert ?—A. If the sutures were removed—— (Objected to.)

10 Q. Have you had the experience of removing sutures ?—A. I have had plenty of experience with drainage tubes.

His HONOR : Drainage tubes from the thyroid cavity ?—A. Not with that, but with other parts of the body.

Mr. SHAND : Is there any difference in principle there ?—A. No, it does not matter whether it is in the thyroid cavity or anywhere else, the same principles apply.

Q. And does the same reason prevail for removing sutures ?—A. Yes, just the same.

20 Q. You were calling attention to the fact that three sutures were removed on the 17th ?—A. That shows to me that there was tension in the wound and as the exudate was not escaping freely on the 17th tension is due to the fact that the fluid could not escape, it looks as though the tube was blocked ; on the 16th there was a little drainage, the fluid could come away from the side of the tube. (Objected to.) It looks as if the exudate was able to escape on the first day because the tissues had not swollen, but on the next day as a result of the interference with the part swelling in the vicinity of the tube would block that so that would block the exudate also, more or less.

30 Q. At a later date did you hear the Plaintiff say that she saw some discharge from the wound, not where the tube had gone in ?—A. I heard that at some time or other.

Q. Assuming that the left superior thyroid artery had been severed so it would necessarily have to be stitched, on which lobe should the drainage tube be put in ?—A. Other things being equal—— (Objected to : allowed.) Seeing that the drainage tube was put in for the purpose of drainage it would naturally be put in to the cavity where you would expect the most exudation, and if a cavity had been pulled about a lot and there had been hæmorrhage there, naturally there would be more exudate there, and that is the place where you would put the distal end of the tube.

40 Q. You put it near the seat of the trouble, where it has to be drained ?—A. Not exactly close to the seat of the trouble, it depends on what you mean by the seat of the trouble, it need not go right up to the artery. I would put it on the side where I would expect the most exudation and that, in this case, would be to the left, if I were only using one tube.

Q. Is that any course that is peculiar for an operation of thyroid-ectomy ?—A. No, just a matter of obvious general principles.

50 Q. And supposing you have some trouble that has occurred on the left with the artery, we have heard that when seven-eighths of the thyroid gland is taken out there is some collapsing in the centre ?—A. There might be some at the first, but not completely.

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Q. Would you get as good a draining if you put the tube in the right lobe?—A. If you put it only into one cavity you would not get as satisfactory a drainage as if you had two tubes in, because the skin falls on the trachea and it tends to cause a certain amount of obstruction.

Q. My friend raised some question on your knowledge of anatomy. Have you demonstrated in anatomy?—A. I was prosector and demonstrator in anatomy at St. Mary's Hospital, London.

Q. Turning to the hospital records from St. Luke's : On the 12th April she was given calcium lactate tablets. What does that indicate to you?—

A. For tetany. Of course, calcium can be given for other things. 10

Q. What other things?—A. Bleeding, where you anticipate bleeding.

Q. On the 15th March the operation and the Plaintiff left St. Luke's about a month later on the 13th April. Assuming that this is a correct statement of facts that within a month or six weeks of the Plaintiff's return from Sydney her nurse did recover undissolved sutures on several occasions, could that be raw catgut?—A. No, not in my opinion.

Q. What could those sutures comprise? (Objected to : disallowed.)

Q. Now I want to deal with the Plaintiff's history after she left St. Luke's on the first occasion. Her husband writes down and says that on the 2nd May her throat has not healed, the whole body has been much swollen until that day. Would that be consistent with a condition of inflammation brought about by the tube?—A. It might be. Swelling of the whole body might be due to myxoedema. 20

Q. What is that?—A. That is a condition in which the thyroid gland is not functioning sufficiently, and this material collects in the tissues, this co-called mucin, and the tissues swell up.

Q. And can inflammation affect the thyroid?—A. Yes, in this operation.

Q. Now, Dr. Bell writes back on the 4th May and says : " I was talking to Dr. Ritchie to-day about Mrs. Hocking and he suggested that she take calcium in the form of calcium gluconate " ?—A. Under the circumstances that points to treatment for tetany. 30

Q. In April Mrs. Hocking is in Quirindi Hospital and you have noted, I think, that there are a large number of references to fomentations to the neck, sometimes 2-hourly, sometimes more?—A. Yes.

Q. What does that indicate?—A. The frequency of the fomentations indicates that the trouble is fairly active, suppuration and inflammation of the neck.

Q. Then we find on the very first day she goes in she has her own capsules and glucose D, what is that for?—A. That consists of glucose and calcium and vitamin D. 40

Q. We have heard what vitamin D is for, do you agree with Professor Welsh?—A. Vitamin D is to favour the absorption of calcium from the intestines.

Q. The next day she had twitching of the body and face?—A. That is indicative of tetany.

Q. I won't take you through the fomentations, they are frequent. You have noted the oozing of pus from the wound?—A. Yes.

Q. On the 7th : " Swelling of neck opened this morning " and to be kept open?—A. That indicates that the sinus was doing what a sinus always has a tendency to do, that is to gradually close as it consists of scar tissue amongst other things and if the accumulation behind it is not 50

sufficient it may close until that accumulation gets sufficient to open it again.

Q. So that indicates that it closed in spite of inflammation?—A. No, the accumulation of drainage up to that time had been sufficient for the sinus to keep open, but as the sinus closed then the exudate tended to accumulate inside and when it closed the accumulation would go on inside and the neck would tend to swell.

10 Q. It was to be kept open and the next day you get blood-stained oozing?—A. Yes, and then it closed and then in spite of the sutures that came out afterwards, so that shows that a wound can close even though there is a foreign body inside.

Q. On the 9th a tetany spasm is reported and she is to be given an intravenous injection of calcium chloride. Did you notice in reading through those records anything with regard to the effect of injections and the absence of injections?—A. Yes, on the whole because without being there it is impossible to. (Objected to : allowed.) Looking at this report on the whole it appears that when she had calcium not only when she had the injections but when it got into the blood it relieved the spasms.

20 Q. What does that indicate?—A. That would indicate that it is a true tetany for calcium is a specific for tetany. If there were intervals, the time between the injections, then she tended to get the tetany, or, as happened on the 9th, when the wound closed, that would aggravate the tetany. It was open on the 7th, and I suppose the tetany was working up and if the drainage is not sufficient on the 9th that would precipitate an attack.

Mr. CASSIDY : When did it close?—A. It was open on the 7th, so presumably it closed before that.

Mr. SHAND : From the 9th to the 17th?—A. She was free from spasms.

30 Q. Do you notice on the 17th the calcium capsules were suspended?—A. I have calcium gluconate suspended on the 17th.

Q. She had not had an injection for some days?—A. She had not had an intravenous injection since the 14th.

Q. And presumably on the 16th the capsules were suspended, what followed on the 17th?—A. A tetany spasm.

Q. It appears at 6.45 an injection was given and she had recovered by when?—A. In 15 minutes. Intravenous injection of calcium chloride and within 15 minutes she had recovered.

40 Q. "Tetany, given injection at 6.45 and spasm lasting till 7." That is a quarter of an hour?—A. Yes.

His HONOR : What does H.I. morphia mean?—A. Hypodermic injection of morphia.

Mr. CASSIDY : Chloroform was given?—A. Yes, while he was preparing the injection, just to relieve the patient while he was preparing the injection.

50 Mr. SHAND : Dr. O'Hanlon writes on the 10th May and said : "There was a free discharge from her neck and she told me she had recovered several pieces of suture material. She had also been troubled very much by contractions in her forearms and legs and occasionally in her facial muscles." Is that consistent with tetany?—A. Yes.

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Q. "A few days after I first saw her I persuaded her to go into hospital where she is at present—there we recovered more catgut and with frequent fomentations to the neck there is less discharge and it appears to be generally better. However, the tetany is, I think, worse. Yesterday she had a very serious spasm involving practically her whole body. It was accompanied by so much pain that I was forced to administer a mild chloroform anaesthesia (not a very safe treatment, I know—considering her condition) until a solution of calcium chloride 10% could be prepared for intravenous administration. I gave 10 cc. of this solution with remarkably rapid and good result, later in the day Mrs. Hocking said 10 she felt well" ?—A. That is pretty conclusive of tetany.

Q. Looking at the hospital reports again, from the 17th May to the 1st June there were eight intravenous injections and no spasms ?—A. Yes.

Q. The last injection being given on the 29th May ?—A. Yes.

Q. Then on the 1st June calcium gluconate was given 10 cc. is that as effective as the calcium chloride ?—A. No.

Q. Does it last as long ?—A. No, it is of short duration, a few hours.

Mr. CASSIDY: Is that what you have seen or is that what you have read ?—A. I have not seen that, but I know it from my reading.

Mr. SHAND: Then she had a tetany spasm at 6 o'clock in the 20 evening, then on the night there is a tetany spasm 9.15. The next day an intravenous injection, and on the 3rd another one and on the 4th another one and on the 5th another one, and on the 6th—A. And on the 3rd I have calcium lactate 10 cc. it does not say intravenous.

Q. On the 4th, 5th and 6th, intravenous ?—A. Yes.

Q. And she has no spasms then and leaves hospital on the 9th ?—A. That is so.

Q. And can you draw a conclusion from that history ?—A. Yes, that is, to my mind, conclusive evidence that this was tetany, parathyroid tetany too. 30

Q. Then she goes in again to Quirindi Hospital on 3rd September because she has a spasm. The note is "Intravenous injection of calcium chloride given 5 p.m. with success" ?—A. Fifteen minutes after muscles relax.

Q. Is that again a further indication ?—A. Yes, quite conclusive.

Q. Then the day report of the 4th? Tetany spasm in the morning, intravenous injection not given, and you get a recurrence during the time, is that to be expected ?—A. It might be expected.

Q. Then she is to have her own injections and calcium lactate, and on the 5th— 40

His HONOR: What does X.P.C. mean ?—A. P.C. means after meals, I don't know what the X stands for—10 grains after meals it means.

Mr. SHAND: On the next day she is given her own injections and calcium lactate tablets and thyroid tablets, no spasms again on the 6th, her own injections and at night her own tablets ?—A. It does not say what the injection is, I take it it was paroidin. Of course, the paroidin acts in the place of the parathyroid gland.

Q. On the 17th January we hear from Dr. O'Hanlon that if anything the lady is improving slightly. "The major attacks though not less frequent are becoming less severe; she recovers from them more quickly 50

than before." Is this a long time for the tetany to continue?—A. It depends on whether the cause is removed or not and how quickly it is removed.

Q. Is it consistent with a foreign body remaining there?—A. Yes.

Q. And causing infection, keeping it alive?—A. Yes, whether it would cause trouble without the infection is doubtful. For instance, if the infection died down altogether and the foreign body remained quiescent the tetany might cease.

10 Q. We have heard of foreign substances like bullets remaining in people and causing no trouble?—A. Yes, but most of those bullets are not in the vicinity of the thyroid gland.

Q. And assuming there were this inflammation, interference with the parathyroids?—A. Yes, it could occur.

Q. And in this case the fact that she was having these spasms would indicate that there was interference?—A. Yes, undoubtedly.

Q. Then she has frequent minor spasms which do not leave the muscles involved as sore as before. She was not able to tolerate the large doses of calcium continued for more than a month or so and at present she is having occasional doses of paroidin, also morphia?—

20 A. There are various factors there, first of all the condition in the neck was getting somewhat quiescent over a fair period of time, and in addition to that she was having paroidin and calcium preparations so that would account for the spasms not being so severe, or might account for that.

Q. Then the doctor writes in May 1939 saying "I was talking to Sir Alan Newton in Melbourne about a similar case to yours. He is a great believer in cod liver oil and calcium, and he puts his patients on this treatment"?—A. What was the similar case to here?

30 Q. This is a letter from Dr. Bell to Mrs. Hocking. I think we know calcium and cod liver oil—A. The similar case to here would, of course, be after thyroidectomy, and he is there referring to the cod liver oil in connection with thyroidectomy and therefore tetany.

Mr. SHAND: You have heard the evidence given then about this passing of the tube through the neck—you have indicated the state of the tonsil now—through the throat?—A. You mean ulcerating from the neck into the pharynx, through the tonsil?

Q. Yes?—A. Yes.

Q. And is that in your opinion a quite possible thing to happen?—A. It is not only possible but under the circumstances in this case I think it is the most likely thing to happen.

40 Q. Will you explain what you mean by that?—A. Yes. There is a considerable amount of trouble in the vicinity of the upper part of the thyroid lobe, and the parts were probably torn about a good deal, with the incision, and the capsule may have been ruptured and that may have caused an abscess. (Objected to: pressed: rejected.)

His HONOR: The witness can give the facts that have been proved, and on those facts he can express an opinion. Do you object to that Mr. Cassidy? Is he allowed to go as far as that? (Objected to by Mr. Shand.)

50 Mr. SHAND: The question I was going to put to you was—you said that it was quite possible and probable for this object to move?—A. To be moved.

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Q. Yes. Perhaps I used the wrong expression. Would you leave out of consideration the possibility that the capsule was ruptured?—

A. Yes. Well, it was ruptured because it was cut by the surgeon.

Q. That is what I thought?—A. In any case it was ruptured in front.

Q. It must happen in any operation, must it not?—A. Of course; obviously.

Mr. CASSIDY: Is that the rupture you refer to, Mr. Shand—the rupture in the front?

His HONOR: You must ask the witness that, Mr. Cassidy, but not at this stage. 10

His HONOR: You say that the rupture was caused by the surgeon? —A. No. When it was incised by the surgeon, of course it was opened. It was ruptured by a knife. That was not the rupture I was referring to though, although that is one line of escape.

Mr. SHAND: Well, let us take it as a fact that that must have happened, and we know that the artery was severed?—A. Yes. She had hæmorrhage from the left artery. You say "severed," but we do not know how that happened. There was hæmorrhage from it.

Q. How could the object be moved?—A. It could be moved in various ways. It can move by gravity; it can move by swallowing, 20 by what is called deglutation. If you swallow like that (indicating) you can feel the thyroid cartilage going up. It can also be moved by massage, but most important of all, this cavity could be ruptured or completely ruptured by convulsion. That is to say, by the spasm that came on on the 2nd October.

Q. That is the final coming through?—A. Yes, the final coming through.

Q. Now is there any difficulty of an object such as that tube working up to the tonsil from the position in the lobe of the thyroid?—A. No, not at all. 30

Q. That is assuming this inflammation there?—A. Yes—fluid.

Q. How does it move?—A. Well, it does not move; it is moved by muscular action on the part of the patient; or it may move by gravity, or it may be moved by somebody outside the patient pressing on it—massaging it upwards.

Q. And if that movement took place some vital organs or blood vessels would be destroyed?—A. Certainly not. That is the rarest thing in the world. I cannot remember a single case myself of any big artery in the body rupturing and causing a person to bleed to death.

Q. In the presence of an object?—A. Yes. If it is such a rare thing 40 it must be published in the journals.

Q. Now assuming that the tube was in the left capsule, would it have to move very far from the top of the capsule to get to the left tonsil? —A. No, quite a short distance, an inch perhaps or half an inch, depending on where it was in this abscess cavity at the time. It might have been at the top of the abscess cavity at the time it came out. We don't know.

Q. Now, once that tube had ruptured through the tonsil, would you expect a quick recovery?—A. That depends. That depends on circumstances. It depends on where the site of the opening was; whether it was at the top or bottom. If an opening is at the bottom of a cavity 50

it drains better and therefore the patient would recover quickly, and it depends on the size of the opening. If the opening is large—

Q. Take this thing. Would you say that it was large?—A. Yes, it must have been. I should think that the opening at the time would have been at least three-eighths of an inch—nearly a quarter of an inch.

Q. At the time?—A. Yes. I say that because openings like that contract owing to the presence of scar tissue.

Q. And had that actually contracted at the time of your examination?—A. Yes, very considerably, because I could not get one of those glass tubes in now without fracturing that tag, and then I don't think I could get it in then.

Q. Now I will turn to the records of St. Luke's when Mrs. Hocking returned on the 25th or 26th October 1939. On the 26th it was reported that her voice was husky?—A. Yes.

Q. What do you say as to that?—A. Well, that huskiness has been a feature for a very long time. I cannot see anything in the records which would indicate when it actually started except in its relationship to the cough which started on the 16th March.

Q. Would that be consistent with having suffered this tetany swelling?—A. Yes. That is a very common thing in tetany, and it would also be consistent with the presence of a foreign body in the vicinity of the larynx.

Q. Now, it is reported that on the 26th a blood calcium test was to be taken, and you now see what the result of that test was—showing 7.2. It was called a blood calcium test?—A. Yes.

His HONOR: On the 27th?—A. On the 28th, I think.

Mr. SHAND: It is referred to on the 26th, and it is dated the 28th. Now, what do you say about that 7.2?—A. Well, that indicated that the calcium content of the blood was below normal. The normal is 10 mgms. per cc. of blood, and that was 7.2.

Q. Is that again indicative of what happened?—A. Yes, that is all in harmony with the condition she had. I cannot see any other explanation.

Q. Now it appears that inhalations were given. Then the blood test having been on the 28th, I think on the 31st there is a report "Plaintiff to have plenty of milk and also halivol capsules"?—A. Yes, that treatment would be all along the same lines. The milk, of course, is nutritious and contains a lot of calcium, and the halivol is nutritious and contains vitamin D.

Q. And there is further reference to milk and halivol?—A. Yes. Of course the milk could be given for anything.

Q. But it does contain calcium?—A. Yes.

Q. Now, is unconsciousness a matter that happens in tetany?—A. Yes. Rarely it happens in severe cases and not necessarily just when the patient is dying.

Q. You have had experience with rubber tubes?—A. Yes.

Q. And are they ordinarily boiled in hospital treatment?—A. Yes.

Q. And what is the effect of boiling? (Objected to.)—A. They must be boiled before they are put in. They never put a tube in without boiling. (Objected to on the ground that there was no evidence that these tubes were boiled: pressed.)

Mr. SHAND: I propose to read out to the doctor and ask him whether he has heard what the Defendant has said about this matter? (No objection.)

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Q. This is page 313 on the second trial. It is the Defendant's evidence :—

“ Q. Such things as drainage tubes and catgut that is used, you would not bother about the rubber tubes because you expect the hospital to prepare them. If they knew a thyroidectomy was to be performed they would boil all rubber tubes ?—A. Yes.

* * * * *

Q. In the steriliser there are several pieces of rubber tubing. That is the usual practice ?—A. I would not say that.

Q. You gave an illustration about the length of the tube you used ?—A. Yes. 10

Q. This particular one is Exhibit 1. That would not be the only piece of tube ?—A. There might be two or three pieces.

Q. And varying lengths ?—A. Yes, probably.

Q. And various diameters also ?—A. Yes, there would be, but not a great variation in diameters.

Q. You don't suggest that the pieces that are not used at the operation are put away and never come into the steriliser again at any time ?—A. I don't suggest that.”

That is correct, is it not ?—A. That is correct ?

Q. That the tubes are boiled ?—A. Yes. 20

Q. And more than once ?—A. Yes, of course. I won't say of course to the last. I will say of course to the first, but in regard to the last, it is very likely that they would be because they are used over and over again. (Objected to.)

Q. You heard what the Defendant said about them being put back again ?—A. Yes.

Q. That is sufficient for me ?—A. I agree with that.

Q. And you have observed the effect of boiling on rubber tubes ?—A. Yes.

Q. And what is that ? (Objected to on the ground that the witness 30 is not an expert in rubber—pressed.)

His HONOR : I think that the portion of the evidence that Mr. Cassidy asked to be read ought to be read first.

Mr. SHAND : This is on page 287, Second Trial, line 14 :—

“ Q. Is it your practice to do anything in relation to the tube before you actually insert it in the site of the operation ?—A. I test it to see it is not perished.”

That is apparently what my friend wants.

Mr. CASSIDY : Yes.

(Further argument on the objection ensued.) 40

His HONOR : I reject the question, Mr. Shand—your objection will be noted.

Mr. SHAND : Now, with a foreign body such as the tube in the wound, could it happen that the wound might close ?—A. Yes, it might close and open or it might close altogether.

Q. And you have already stated that it did appear to close at that particular time ?—A. Not appear—it did.

Mr. CASSIDY : When was that ?—A. The early part of May.

Mr. SHAND: In the Quirindi Hospital?—A. Yes. And then it closed as far as I can gather in the early part of June.

Q. Now take that tendency of closing—in a situation like the thyroid is that rendered likely?—A. It does not matter whether it is in the thyroid or where it is. It has the tendency everywhere.

Q. Are there certain muscles going across the thyroid?—A. Yes, three layers of muscles—four.

Q. Now this is a text book of human anatomy. There is an illustration there of the muscles of the neck. It is on page 172. (Handed to witness)?—A. There are three layers of muscles. This is the sterno mastoid (indicating). That is the powerful muscle, and underneath the sterno mastoid are these flat strap muscles, the sterno hyoid and another one at the side that does not matter. It is in the same layer. Underneath that is the sterno thyroid, and then in front of this, between those muscles and the skin and the deep fascia, there is another muscle called the platysma. So there are really four layers of muscles.

Q. Now, assuming that the tube was in the left lobe of the thyroid cavity, where would it be in relation to those muscles?—A. Like that (indicating). It would come superficial to these muscles here and underneath all these muscles on the left-hand side.

20 Q. It would be underneath there (indicating)?—A. Yes.

Q. Would that serve to retain the tube?—A. Yes. That would be pressed on the tube and help to grip it.

Q. You heard the Plaintiff give evidence of one occasion when she had a looking glass—when she took a looking glass and saw the eyelid turned back?—A. Yes. That was an occasion when she said that she had a strong spasm of the facial muscles. That is one called the orbicularis and the ocular muscles. The action of the ocular muscles caused a squint on that side, and she said that the eyeball was drawn right back, and another thing she said was that there was little, if any, spasm on the hand at the time.

30 Q. Is that quite consistent?—A. Yes. I think that is a very strong element in this case—a feature, because it shows that she performed or the tube performed a “trousseau” test on her. That is a test for tetany. You put a band round the arm, to interfere with the blood supply to the muscles, and the muscles go into a spasm because they get still less calcium than they got before.

His HONOR: As if you are having a blood pressure test?—A. Yes, although it need not be as tight as that.

Mr. SHAND: This is in regard to a person who has got tetany?—
40 A. It is a person whom you suspect, if it is not very obvious, and the muscles below the band go into a spasm—the accoucheur’s hand. The part is already deficient in calcium, and if you prevent calcium getting to it it will tend to bring the spasm on or get worse.

Q. Now, you said something about the eye?—A. Yes, my interpretation of that incident is this. This tube or the exudation, or both, at that particular time, pressed upon the carotid artery or vein, or both, interfering with the blood supply on the left-hand side above. That would account for the strong spasm of the facial muscles here (indicating), this orbicular muscle, and the action on the ocular muscles, and it would also account
50 for the fact that at that time she had little or no spasm in the hand. In other words it was a localising action. It localised the spasm.

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Q. Do you get what you term bi-lateral effects?—A. Usually.

Q. But do you always?—A. Not always, but in exceptional cases you may get it localised.

Q. That means selecting certain muscles?—A. Yes, certain muscles or certain odd parts on one side of the body. That occurred on the left side.

Q. You heard that there was swelling there?—A. Yes. As regards the question of double vision, of course she would not necessarily have double vision because the eye would be pulled back so much that she could not see. 10

Q. If she was looking in a looking glass—A. The eye would be back so much that the orbital bone would be in the way. Even if the patient had time to see, it does not say that she would have double vision.

Q. You have heard the Plaintiff's evidence that the tube that came out was softer and thicker than what she had observed in the Defendant's hand, when it came out?—A. Yes. I think she said something like that. I don't know that she would have much opportunity of observing it in the Defendant's hands when she was so ill, but from what she could observe of it it appeared to be different. 20

Q. Well, she said it was soft and appeared to be thicker?—A. Yes.

Q. Have you any experience of this on rubber?—A. Yes.

Q. And what is the effect?—A. It discolours the rubber and softens it and tends to swell it.

Q. Mrs. Hocking described that she felt something going down here—(indicating)—and she felt some sensation in the stomach afterwards?—A. Yes, that is quite possible. It might be caused in two ways. It might be apparently caused by the pus that she swallowed being laden with germs—that might irritate the stomach and the intestines, and it might also be caused by the foreign body coming up against the pyloric sphincter. That will not allow food to escape from the stomach until it has been digested and becomes fluid and if anything hard comes up against it, it goes into a spasm, and a spasm causes pain, and when it comes down near the appendix the same thing might happen there again, and in addition to that she was having aperients. All those things could cause various sensations. 30

Q. Now my friend dealt in cross-examination in regard to abscesses, as to suppuration?—A. An abscess is a bag of pus.

Q. You have commented on the destruction of tissue. Take the breast. Do you get abscesses there?—A. Yes, very huge abscesses at 40 times, with a pint or two of pus.

Q. Do they necessarily involve destruction of tissue?—A. Not obviously. There is, of course, some alteration. It is not evident, unless you could cut out the breast and examine it minutely, you could probably see no change.

Mr. SHAND : After this tube was stated to be removed, the 17th, you have seen the hospital record that there was this suppuration and temperature. That means inflammation and suppuration?—A. Temperature does not always mean inflammation, but that is the commonest cause. Suppuration, of course, implies inflammation. 50

Q. The Defendant says she was very ill then. You heard that?—A. Yes. She was very seriously ill.

Q. Would it be safe to operate for a piece of tube then?—A. No, it would be very foolish. With that infection, if you operated you would have probably set up a dangerous cellulitis in the neck and, apart from that, the patient was in a very bad state after the operation, semi-conscious, restless, rapid pulse and she had hæmorrhage and with the shock she was in a very parlous condition. It would have been folly to have done anything then at that stage, otherwise one might have had a corpse.

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10 Q. If you had the misfortune to have a piece of tube break off then, would you have considered operating?—A. No, I would have attempted to get sinus forceps down, a long narrow blade, to get into small openings and canals. I would have tried to put it down. It would have been difficult in this case owing to the muscles to get hold of that body and pull it out. I would have made several attempts perhaps on different days. If they were unsuccessful I would have desisted for a time.

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20 Q. Do you think you would have had to wait?—A. You might have to wait a considerable time. There is another position: the surgeon might have said to himself "Oh, well, there is this infection. Even if I leave her for one month or two months, if I open it up I will cut through the surrounding protective tissue and open the part and may open up the infection again." He may have said perhaps "I will adopt a waiting policy and perhaps the thing will quieten down and the thing will close and the foreign body will remain there with the patient for the rest of her life."

30 Q. Might there have been the chance of the tube working its way out of the sinus itself?—A. I don't think so. It was deep and covered up. It was not under the skin, you see. The tube would be too large even if it could get past the barrier of the capsule of the thyroid gland and those three layers of muscles and the suturing, it would have a lot of obstacles to overcome.

Q. The superior thyroid artery was on the left. It was stitched. We have heard that?—A. No, we have not heard that.

Q. Well, the sutures?—A. No.

Q. I mean the ligatures?—A. I don't know that it was actually mentioned. It is, of course, implied.

Q. In a space like that when you get the severance of an artery you would expect a fair amount of blood?—A. Yes, in that condition, because the vessels are very large.

Q. You are working in a more or less confined space?—A. Somewhat.

40 Q. If stitching is used, is it possible for a stitch to have gone through the rubber tube? (Objected to)—A. Yes.

Q. Is it possible for a stitch to have gone through the tube? (Again objected to: rejected.)

Q. What kind of needles are used in operations in spaces like that?—A. Sharp pointed and round pointed, cutting blades.

Q. Straight needles?—A. No, usually curved.

Q. Half circle?—A. In the cavity they would be curved like this (indicating).

50 Q. Are swabs used in operations of this nature?—A. Yes, for hæmorrhage.

Q. What is a swab?—A. Gauze, small pieces folded over. They are sometimes used for the control of hæmorrhage. If you cannot stop it

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by ligature or forceps you may have to use a hot swab and press on the part. You cannot always stop hæmorrhage. You may have to be satisfied with stopping it as well as you can, especially if the patient is in a bad condition and you have to get her off the table.

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tion.

Mr. CASSIDY (Plaintiff stands in front of Jury box): Take the cut on the neck. The incision is there (indicating). That is the scar of the incision which I point to now. That is the mark of the incision?—
A. Correct.

Q. Do you remember referring the Jury to a depression there?— 10
A. Yes.

Q. The tube did not go in there?—A. Yes, underneath that.

Q. But that is not where the tube went in?—A. It went in underneath that dimple.

Q. You say it went in there?—A. Yes, and there is no doubt about it.

Q. Didn't it go in down here. Is it your understanding that the tube went in on the left-hand side of the neck, in there (indicating). Is it your understanding that it went in where my finger is, that is the left-hand side of the neck?

His HONOR: Was the outside aperture of the tube on the right 20
or left-hand side?—A. Right.

Mr. CASSIDY: And the tube went in where my finger is?—A. Right of the middle line.

Q. Where the incision is?—A. I don't say where your finger was.

Q. But you may take it to the right of the middle line?—A. No, I do not know, I won't take it.

Q. But you heard the Plaintiff give evidence?—A. Yes.

Q. And she said it was 1 inch to the right of the middle line?—A. She is not a trained observer.

Q. You do not proceed on that. Do you abandon that?—A. No, 30
I am not abandoning the fact, but I am abandoning the necessary accuracy of the measurement. She did not have a tape measure.

Q. That is the line where the tube went in?—A. On the right-hand side of the middle line.

Q. But on the incision?—A. Yes.

Q. You will accept the tube is put in there?—A. No, not where your finger is.

Q. Well, it is put in on the line of the incision?—A. Yes, I will accept that.

Q. And it is poked in?—A. No. 40

Q. Well it is put in?—A. It is inserted.

Q. It goes across the trachea here (indicating)?—A. Always does.

Q. In this case you assume it went across in front of the trachea?
—A. In this case, yes.

Q. It came across here (indicating)?—A. It went upwards and backwards like this, of course deeply into the neck.

Q. It went across the trachea at an angle such as you indicate?—
A. Obliquely, yes.

Q. Like that (indicating)?—A. Yes.

Q. You try to remember the evidence fairly between the parties, I suppose?—A. Yes.

Q. Do you say you don't remember this lady swearing that she measured where the tube went in and it was an inch to the right of the middle line?—A. Nothing like that.

Q. You have read her evidence again in the two cases which have gone before?—A. Yes.

Q. Do you seriously say you have never read that she measured where the dimple was, and it was 1 inch to the right?—A. Never heard of it before—not that it was measured.

Q. The part left where the tube went in, I mean?—A. What measurement are you referring to?

Q. Don't you know I am referring to the position on the right of the middle line where the tube went in?—A. I don't know what you are referring to.

Q. But just assume that is the position?—A. I am assuming you are referring to the opening. She thought it was about 1 inch.

Q. You heard her say she measured it?—A. No.

Q. You know she thought it was 1 inch?—A. That was her impression. You could not expect a layman to be accurate.

Q. I want to refer to page 2 of the second trial?—A. I was not here.

Q. You have read the evidence very carefully in the second trial?—A. I have read it.

Q. It begins on page 1: "The next day I noticed that there was something out of the right side, though I did not see it. I could feel it, but did not touch it, though I knew it was there. There is an indication on the neck at the present time showing where that tube was, a slight triangular scar." Do you remember this incident at page 30 of the second trial:—

30 "His Honor: Is there any mark there now to indicate where it was?—A. Yes.

Mr. Reimer: That was a magnifying mirror—the lady may not be used to that? (Folding mirror handed to Witness)?—A. About there. (Indicating base of neck on right side)."

Do you remember this incident about the mirror now?—A. No, not very distinctly.

Q. It goes on:—

40 "Q. Where do you say the discharge came from?—A. About there. (Witness indicates right-hand side of centre of base of neck.)

Q. (Mr. Reimer measures distance between the two points with ruler.) A little over an inch.

(Mr. Hardwick objects to Mr. Reimer stating the distance—admitted as apparently fairly accurate)"

Do you remember that incident?—A. No.

Q. It makes a very great difference?—A. Does it?

Q. Because then if there is half an inch of the tube out and it is 1 inch from the middle line, how much of the tube have you got going over?—A. I am not admitting it was 1 inch from the middle line. I am only admitting that is what the patient said.

50 Q. Assume what the patient said?—A. I would not assume that. We do not assume that patients are accurate.

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Q. Would you then expect a tribunal to decide on something different to what the Plaintiff says. (Objected to; rejected.)

Q. If you do not accept what the Plaintiff says will you accept what Dr. Bell says?—A. I do not accept what the Plaintiff says as to accuracy, but I accept it as to the fact.

Q. She had the mark where the tube went in?—A. She says so.

Q. She ought to know?—A. She is not a trained observer.

Q. Would not it be the mark, the last part where it healed up?—

A. I don't say that.

Q. But that is where it healed. You know that is what healed last, the sinus, that is the part which healed last where the tube came out?—A. No, I don't know that. The evidence is they made that opening in the centre and it was not the opening the tube came out of.

Q. Is there any evidence to that effect?—A. Yes.

Q. You will show that to me to-morrow?—A. I do not say that I can. But I have the impression that I read that. I cannot remember everything.

Q. If it is on the right-hand side, according to you, you had your tube pointing up into the air?—A. I do not say so. It is pointing downwards.

Q. The drainage will come from the top of the thyroid?—A. Yes, from the thyroid capsule.

Q. From the top?—A. From the top and middle and bottom.

Q. How can it come through?—A. The tube does not go to every part of the thyroid cavity. It is in it, that is all.

Q. The stuff would have to come up and well over the tube to get into it?—A. No, the thyroid gland is above the incision.

Q. You have never had a thyroidectomy?—A. Yes, but not for ex-ophthalmic goitre.

Q. You have sworn that in 1933 you saw one in St. Mary's, London?—A. I don't know that I actually saw one there. I saw a lot of operations there.

Q. Did not you swear that you saw a thyroidectomy in England?—A. I do not know that I said that.

Q. You know it is untrue if you said so. Is it a fact you had not seen one for 20 years? You swore that before, did you not?—A. I never admitted that.

Q. Did you see one in England?—A. St. Mary's and the various hospitals.

Q. You saw a number of thyroidectomys in England?—A. Yes, I could not say how many.

Q. At a number of different hospitals?—A. Yes.

Q. If you swore you did not see any in England it would be quite untrue?—A. I did not say it.

Q. And you have never said it?—A. No.

Q. You say the superior artery was severed?—A. I did not say that.

Q. Do you say it was severed?—A. I do not say that. Dr. Bell said so.

Q. Would it be accidental?—A. I don't think Dr. Bell used "severed." But he indicated there was hæmorrhage from the superior artery on the left.

Q. Would it be severed?—A. It might be.

Q. Purposely done?—A. Of course not.

Q. Don't you cut the artery for the purpose of the operation?—
A. You ligature it and cut it afterwards. Sometimes you may sever it
in the process of enucleating the gland.

Q. Didn't you say you would not cut it?—A. I did not.

Q. Did not you mean to convey it would not be cut?—A. I didn't
mean to convey anything of the kind. If the surgeon is going to ligature
he is going to cut it. If he tears it he does not cut it.

10 Q. Can the operation be done without cutting?—A. Yes, he may
tear it accidentally.

Q. Are you really serious?—A. Of course I am serious.

Q. Is it not cut deliberately?—A. If you cut a thing you do a thing
deliberately.

Q. Has it not to be done?—A. Of course you can cut a thing
accidentally, but in the process of enucleating this gland very often you
tear the vessels. It is not cutting and yet you have a hæmorrhage.

Q. Long before you cut it, you cut the superior thyroid artery?—
A. Not necessarily. You have to ligature the artery before you take the
gland out.

20 Q. I put it to you, you knew so little of the operation that you
thought if it were cut it was cut accidentally?—A. That is an assumption
on your part. I know a good deal of the operation.

Q. Is it a fact it must be severed before the operation is done?—
A. Yes.

Q. You agree with that?—A. Yes, usually.

Q. Always?—A. No, I don't agree with that. You may take away
the front of the thyroid gland and still leave the superior and inferior
arteries intact.

30 Q. I want to refer to page 212 of the second trial :

“ Q. Have you attended at any operation when any person
other than yourself has been operating, in the last 15 or 20 years
anyway?—A. Have I what ?

His Honor: Have you seen anybody else besides yourself
perform an operation in that time?—A. No.”

Was that correct?—A. It may not be quite correct. I was in England
in 1933. I may have forgotten that time. I attended the operating
theatre at St. Mary's Hospital for a considerable period of time.

Q. You forgot that?—A. I may have forgotten it. It is easy to
forget these things.

40 Q. Although you were being challenged as to your knowledge of the
operation of thyroidectomy?—A. It is only a red herring.

Q. You consider it is unimportant?—A. Yes, because this question
of thyroidectomy has nothing to do with this case. It is a matter of
elementary surgical principles and foreign bodies and their consequences,
and the other is only a red herring to distract things.

Q. That is why you read it up?—A. No, I wanted to be prepared
for you.

Q. Are you serious when you say that?—A. When I say you, I mean
opposing Counsel.

50 Q. You were taking a very great interest in it?—A. Yes, I wanted
to see this woman get justice.

Q. That is it, is that all?—A. Yes, that is all.

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Q. Would you tell a lie?—A. I do not know about that. There might be certain circumstances which would justify it.

Q. You feel very strongly about this matter do you not. Do you feel strongly?—A. I wanted to see this poor woman get justice.

Q. And would you tell a lie?—A. No, I am not telling lies.

Q. You said you would tell a lie if circumstances demanded it?—A. I said I might. We all might under certain circumstances.

Q. As a professional man on oath?—A. I am not talking about oath. I am talking of the ordinary circumstances of life. If put to torture you might tell a falsehood. 10

Q. Did you see down that lady's throat?—A. Yes.

Q. With which eye?—A. The left eye.

Q. The right eye?—A. I cannot use the right eye and you know that.

Q. You said you would tell a lie if necessary?—A. I did not say that.

Q. You would tell a lie under certain circumstances?—A. Anybody might.

Q. When I appeared against you last you sued a boat builder for negligence?—A. Yes, quite rightly too.

Q. You told a deliberate lie on that occasion for the purpose of trying to get a verdict?—A. That is a lie. 20

Q. And a verdict was found against you?—A. You are lying.

Q. The verdict was found against you?—A. Yes, a very unjust verdict.

(At this stage further hearing was adjourned until 10 a.m., on Wednesday, 8th December 1943.)

Seventh day, Wednesday, 8th December 1943.

Dr. THOMPSON.

Further Cross-examined :

The WITNESS : Here is the probe Your Honor was asking about yesterday—I brought it in.

His HONOR : It is the same as Exhibit S?—A. That is so. 30

Mr. CASSIDY : You would agree with me, I suppose, that it is essential for a medical witness giving evidence as to movement of a foreign body in the neck to have a good idea of the anatomy of the neck?—A. Yes.

Q. You will agree with me, will you not, that you have never had any experience of a foreign body in the neck?—A. I cannot recall one just at present—bullets.

Q. You have been asked about it before—are you able to recall that you have had experience of bullets in the neck?—A. Yes.

Q. When did you recall that?—A. I think I did last time. 40

Q. Last time you recalled that you had experience of bullets in the neck?—A. Yes, I think so.

Q. I put it to you that you spoke of bullets but did not say it was in the neck?—A. May be.

Q. I want to get it definitely—last time you swore, did you not, that you had no experience of foreign bodies in the neck?—A. I do not remember.

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tion.

Q. Do you tell us now that you have had experience of a bullet in the neck?—A. I think so—I cannot remember going back over the years for things that I have had, or exactly where the bullets were, but I distinctly recollect seeing bullets in a patient's neck.

Q. When?—A. I do not remember.

Q. How long ago?—A. I could not say.

Q. In Australia?—A. I cannot remember. It may be—shrapnel.

Q. Do you remember it was shrapnel now?—A. I think so—I think in Australia too.

10 Q. Any idea which hospital?—A. Not in a hospital—patients walking about. Lots of them carry shrapnel about in their bodies.

Q. You can remember it distinctly, can you?—A. No, but I remember distinctly patients carrying shrapnel about in their bodies.

Q. Yesterday you gave this evidence—at page 333 Mr. Shand said to you: "Would that serve to retain the tube?" You said "Yes, that would be pressed on the tube and help to grip it"?—A. What is "that"?

20 Q. This is the passage preceding: "Now assuming that the tube was in the left lobe of the thyroid cavity, where would it be in relation to those muscles?" You said "Like that (indicating). It would come superficial to those muscles here and underneath all these muscles on the left-hand side"?—A. Superficial on the right—underneath, on the left.

Q. Is that something different from this: "It would come superficial to those muscles here and underneath all these muscles on the left-hand side"?—A. No, that is just the same thing—superficial to the muscles on the right-hand side—deep to the ones on the left.

Q. You do not want to alter that?—A. No.

Q. And you know those muscles?—A. I do—very well.

30 Q. I suppose you would recognise Dr. Poate, Dr. Edey, Dr. Bell, as men of very great experience in these operations in the neck?—A. I do not know.

Q. Don't you know it is a household work almost?—A. That is hearsay.

Q. Don't you know they are surgeons recognised as having great experience in the neck?—A. I believe they are. I do not know anything about Dr. Bell and Dr. Edey, but I believe that as regards Dr. Poate, although I have not seen him operate.

Q. You do not know anything about Dr. Edey?—A. No.

Q. Have you heard of him?—A. I have heard his name.

Q. Would that serve to retain the tube?—A. Partly.

40 Q. Only partly?—A. Yes.

Q. Was your answer yesterday this: "Yes, that would be pressed on the tube and help to grip it"?—A. That is the same as "partly."

Q. I will take that for the moment. So you have got pressure on the tube helping to grip it?—A. Yes.

Q. So the muscles are helping to grip that tube to hold it in?—A. Compressing it—yes.

Q. And that will be helping to hold it in?—A. Partly.

Q. Causing resistance?—A. Slight.

50 Q. You know that it would be very slight—practically nil?—A. I do not know anything of the kind. It depends on circumstances.

Q. You do not know because you have never done the operation?—A. I did not say that.

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Q. Do you know?—A. Yes.

Q. And you think they grip—you add the word “slightly”?—

A. It depends on the circumstances of the particular patient—more at one time, less at another—more in one patient than in another patient, and more at one time than at another time it may be in the same patient.

Q. May we take that as applying just after the tube is put in?—

A. Yes.

Q. And that is the time when it will be more?—A. I did not say that.

Q. At what time will it be more?—A. I do not know—it depends on 10 circumstances.

Q. At what time do you suggest it will be more?—A. I am not suggesting.

Q. Do you withdraw that it will be more at one time than another?—A. No.

Q. Have you got any foundation for saying it?—A. Yes.

Q. What is the foundation?—A. General surgical experience.

Q. Of those muscles?—A. I did not say those muscles—any muscle including this.

Q. You remember this significant fact, that you did not make any 20 suggestion like that last time?—A. I was not conducting the case.

Q. But you have a good deal to tell in the cases—nobody ever stops you, do they?—A. Yes, you do.

Q. I have only been against you once?—A. I know.

Q. You do not suggest that any counsel ever stops you, do you?—

A. Yes. I may suggest various things to counsel but I cannot force them to put those things to me.

Q. Is it an important matter—the matter you swore yesterday—Mr. Shand asked you: “That would be pressed on the tube and help to grip it”?—A. I did not say it was a very important matter. 30

Q. Were you not putting that forward to the jury as one way that the tube would be kept in?—A. Yes.

Q. You had heard me cross-examine Professor Welsh, had you not?—A. Partly.

Q. And you heard me cross-examine Professor Welsh with regard to an incident of the pulling out of that tube?—A. I do not remember the incident. I was not here all the time.

Q. Were you not sitting in Court and did I not turn round and look at you?—A. Part of the time.

Q. On this occasion?—A. Part of the time. I was not here all the 40 time.

Q. At the time I was asking you?—A. I do not remember it.

Q. Do you regard that statement as important?—A. What statement?

Q. Where you deal with the muscles—Mr. Shand asked you to deal with the muscles, and then you say “That would be pressed on the tube and help to grip it”?—A. That is an ingredient.

Q. An ingredient that you have never mentioned before?—A. I do not think I was asked.

Q. You have given evidence on two occasions——

Mr. SHAND: When I asked the question after Your Honor made a 50 remark, Your Honor will see that it was not put forward as retaining the tube—resistance to pulling out.

His HONOR: It seems to me that there is nothing that you can object to in Mr. Cassidy's question.

Mr. CASSIDY: You used the words "they help to grip it" ?—
A. I may have done.

Q. Do you still stick to them or do you wish to alter them?—
A. Partly—no, I do not want to alter them.

Q. Do you want to qualify them ?—A. No, I do not think so.

Q. So we may take it that you still adhere to that statement ?—
A. I think so.

10 Q. You are the man who ought to know ?—A. I have told you I think so.

Q. Is that the best you will do ?—A. Yes.

Q. You will not positively adhere to it ?—A. It is rash to be positive in this life.

Q. You realise that that is a matter where the men who know the anatomy of the neck can if necessary illustrate those muscles to the jury ?—

A. I know the anatomy of the neck very well, seeing that I was Demonstrator in Anatomy at St. Mary's Hospital in London.

Q. What were you at St. Mary's—you said you studied the eye in
20 St. Mary's ?—A. I took an eye course there—Ophthalmic Department—but I do not think I said that. I have no recollection of saying so. I do not think you will find it there either.

Q. Would it be right—you took an eye course there ?—A. I did—six months, under Leslie Paton.

Q. You never practised in England, did you ?—A. Not private practice.

Q. You told me then you know the anatomy of the neck ?—A. Very well. Perhaps I do not know it as well now as I used to.

Q. You have been most assiduous working for this case ?—A. I have
30 worked for it.

Q. And you have made voluminous notes ?—A. I have made notes.

Q. You have read authorities to qualify yourself ?—A. Partly. I was qualified before.

Q. And you have given a lot of study to hospital records and everything you have been able to get ?—A. I have given some study, yes.

Q. We may take this as correct—in every case in these Courts that there has been a case against a doctor you have given evidence for the plaintiff ?—A. No.

Q. Practically every one ?—A. No, and if I have given evidence it
40 has been because they practically could not get medical evidence, owing to the B.M.A. boycott or veto.

Q. That is what you say every time—that is your answer ?—A. No, I have never given evidence of that before.

Q. You have been cross-examined on many occasions by Mr. Herron when a barrister ?—A. No.

Q. In every case against doctors you have given evidence against the doctors because you are the only one they can get ?—A. Absolutely no. There are many cases when I have refused to come forward. In this case, when Mr. Wilson approached me in the first instance and asked
50 me to give evidence I said "I would rather not if you can get somebody else, but if you find the veto of the B.M.A. so effective I will step into the breach."

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Q. You think the B.M.A. are bad people?—A. I think they interfere with the administration of justice.

Q. You think Dr. Poate and Dr. Edye are people who lie?—A. I think they are talking a lot of twaddle.

Q. You think people with that reputation will talk twaddle?—
A. I know they do.

Q. You think they swear lies? (Answer struck out by His Honor's direction, at request of Mr. Cassidy.)

The WITNESS : I say they boycott or veto the public—the plaintiffs.

Mr. CASSIDY : Did you say they talk a lot of twaddle?—A. Yes, 10
in this case.

Mr. CASSIDY : I press the question—" You think they swear lies " ?
(Objected to : rejected.)

Q. I want to come next to a question—you gave some evidence yesterday about this spasm and the eyes?—A. Yes.

Q. Do you remember being cross-examined in regard to that matter on the last occasion?—A. I think so.

Q. You could not forget it, could you—it stands out in your memory, does it not?—A. No.

Q. Does it not?—A. No. 20

Q. You remember it was suggested to you—a passage was read to you where this spasm as to the eyes as deposed to by the Plaintiff was symptomatic of hysteria?—A. No.

Q. Do you remember that passage being read to you from a well-known medical authority?—A. I don't.

Q. Have you forgotten the criticism you were subjected to in regard to that answer? (Objected to as double question.)

Q. Do you remember being criticised last time? (Objected to : admitted.)

Q. Do you remember being criticised on the last occasion in regard 30
to this eye incident?—A. What do you mean by " criticised " ?

Q. Don't you know?—A. I know what criticism is, but I do not know what you mean by it.

Q. Do any remarks that were made in that regard stand out in your mind?—A. Yes.

Q. Whose remarks were they?—A. I think the Judge made a remark.

Q. You remember it, don't you?—A. Yes, but I would not admit that it was criticism—I would not admit that it was necessarily criticism.

Q. The eye incident yesterday you described and explained in terms that you have not used before?—A. That is so. 40

Q. And in terms you did not use last time?—A. Yes.

Q. And the alteration has come because of what you said last time being criticised?—A. No.

Q. Have you repented of what you said last time?—A. No.

Q. Why did you alter it?—A. Further consideration.

Q. But last time was the second time you had given evidence?—
A. Yes.

Q. So you have changed your mind on that aspect since the last occasion?—A. No.

Q. You have altered your evidence since the last occasion?—A. No. 50

Q. Did you not tell me just now you had?—A. Supplemented it.

Q. Was not that the result of the criticism that you got?—A. No—nothing to do with it.

Q. You disagreed for a start with a passage in a well-known text-book?—A. I do not remember.

Q. That is the best you can do?—A. Yes.

Q. If you had to supplement your evidence, you have given this matter some consideration?—A. A bit.

Q. Don't you remember that you disagreed with a passage from a well-known text-book?—A. No.

10 Q. Will you say you did not?—A. No.

Q. What will you say?—A. I don't remember.

Q. Could you forget that?—A. I might.

Q. You have got a good memory, have you not?—A. A bad memory, unfortunately.

Q. Bad or convenient?—A. I said "bad." (Objected to: admitted.)

Q. Bad memory or convenient?—A. I have answered the question—bad—poor.

Q. Was that the case in the boat case that I had?—A. It always has been.

20 Q. And you are genuine and serious when you tell me that you cannot remember this quotation from the text-book?—A. I cannot remember everything that has occurred in these trials—you cannot.

Q. Do you remember this much, that it was being put to you that that spasm, according to the authorities and according to the doctors, was typical of hysteria?—A. That is a long question—if you put it item by item I will try to answer it.

Q. Cannot you answer it just as I have put it?—A. No.

Q. You want me to split it up?—A. Yes.

30 Q. Can you remember this much—that it was being put to you—leave the medical men out for the moment—from the text-book—that that eye incident—A. Which text-book?

Q. Take a text-book for the moment?—A. I do not remember anything being put to me from a text-book. I put something from a text-book.

Q. Ostler?—A. Something was put to me from Ostler but not about the eye.

Q. The Ostler McRae Principles?—A. I do not remember anything being put to me about the eye from Ostler. It may have been done, but I do not remember.

40 Q. Don't you remember that when it was put to you you said you would not agree with it?—A. I do not remember.

Q. Do you agree with it?—A. What—read the passage?

Q. I will give you the sequence—I want to refresh your memory a little further. Do you remember that you then told counsel that you had a book at home which would show that it was not hysteria?—A. Lots of books that proved it was not.

Q. Did you say that you had one—did you say "lots"?—A. I do not remember what I said.

Q. Did you say "lots"?—A. I had lots of books on hysteria.

50 Q. Were you asked to bring a book?—A. I was asked to bring two books.

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tion,
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Q. Did you bring a book called "Allbutt's"?—A. Yes, the Clifford Allbutt System of Medicine.

Q. Was that the only thing you could find in it?—A. That is all I could remember—I forgot another thing.

Q. You asked for time to look?—A. I said I could not remember the exact words, but if the Judge wanted the exact words I would have to get the book.

Q. You asked for time to get the book?—A. I had to.

Q. You asked for time to go home?—A. No—it was in counsel's control. 10

Q. And you brought the book you call "Allbutt & Johnston"?—A. It is a very well-known book.

Q. And all you could find as the result of your searching was a passage which referred to limbs?—A. No.

Q. That is all you referred the Judge to?—A. That is so—I forgot the other. I remember mentioning to Mr. Wilson afterwards that it was a pity I forgot that.

Q. You were cross-examined about that statement about limbs?—A. Of course a limb is merely an appendage—a head could be called a limb of the body. 20

Q. You tried to make out your justification for the statement was that eyes were limbs?—A. I did not.

Q. Listen to this from the transcript, page 287: "Such a book at 1415 dealing with General and Functional Diseases, particularly regarding hysteria, says: 'sometimes the ocular muscles are affected and we have (then the author refers to a number of different spasms) in the eyes' "?—A. Is this supposed to be the passage I referred to?

Q. No, this is the passage you were being cross-examined on—that the eye incident is symptomatic of hysteria and not tetany. This is Kennedy, Professor of Neurology—you know that book?—A. No. 30

Q. Do you know Cecil's Text-book of Medicine?—A. No.

Q. Do you know a Professor Kennedy?—A. I have never heard of him—until last time.

Q. Did you say then that you were prepared to admit that that book had a certain amount of authority?—A. I do not think so.

Q. Do you know it at all?—A. No. I never heard of it.

His HONOR: At page 238—"Q. Are you prepared to admit that it is a book with a certain amount of authority?—A. Yes."

Mr. CASSIDY: You know that book, don't you?—A. I have said no. 40

Q. And you will not admit that it is a book of authority?—A. I did not say that.

Q. Well, is it?—A. I do not accept anything as an authority—I might admit it is a good book, or a text-book.

His HONOR: Is it a text-book?—A. Presumably it is a text-book—I do not know anything about it.

Mr. CASSIDY: What do you mean when you say it was a book you could regard as having a certain amount of authority?—A. I should have qualified that. I do not recognise any medical text-book as being infallible. 50

Q. Are you infallible?—A. No.

Q. "General and Functional Diseases, particularly regarding hysteria. Sometimes the ocular muscles are affected and we have—spasms in the eyes"?—A. That is so.

Q. Was your answer to that question: "That is in hysteria," "Yes"?—A. You are reading from "Hysteria."

Q. Is that your answer still?—A. Spasms do occur in hysteria.

Q. Is that your answer to that question?—A. I do not know what my answer was then.

10 Q. What is it now?—A. Spasms do occur in hysteria.

Q. Of the eyes?—A. Of the ocular muscles—but that is very different from what you describe.

Q. Your answer last time when asked "That is in hysteria" was "Yes"?—A. Spasms occur in hysteria and they may affect the ocular muscles. That is the same thing.

Q. So I can take this answer that you gave to that question?—A. If it is the same as I have just given now, yes.

Q. No—I do not want any fencing—the answer you gave then was: "That is in hysteria"?—A. Yes?—A. I do not remember.

20 Q. Will you admit it if I show it to you?—A. If it is there I probably said it.

Q. But you did say it?—A. I do not remember.

Q. Will you admit that is a true record?—A. Apparently.

Q. The answer to that question: "That is in hysteria" was "Yes"?—A. Apparently I said it.

Q. And you agree with it still?—A. I have just told you this morning—it is equivalent to what I have just said.

30 Q. Do you remember the next question: "Have you been able to find in any text-book or any medical treatise a description of such a condition in the eyes as Mrs. Hocking describes"?—A. Yes.

Q. And your answer was "Yes"?—A. By inference.

Q. No—at that time your answer was "Yes"?—A. It may have been.

Q. You know this incident I am coming to?—A. Yes.

Q. You have looked at it recently?—A. Yes.

Q. And your memory is perfect about this incident?—A. I would not say "perfect."

Q. It is not poor?—A. I think I remember it fairly clearly.

40 Q. Did you not tell me not so long ago that you did not remember it?—A. No.

Q. The next question following that was: "Where?" and the answer was "Allbutt, System of Medicine"?—A. That is right.

Q. You were then asked would you produce it?—A. Yes.

Q. And you said you would?—

Mr. SHAND: No—the inference was the next thing.

Mr. CASSIDY: You were asked to produce it?—A. Yes, but I said that was an inference that could be drawn.

50 Q. Is your memory so good that you can remember you used the word "inference" at that stage?—A. Not at that stage, but I can remember using the words "inference" and "inferential."

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Q. Did you hear Mr. Shand say that the words followed?—A. Yes, I heard Mr. Shand say that.

Q. Did you hear His Honor say "The book must speak for itself"?—A. Yes.

Q. Did you say "Yes, I think I understand—I could look that up for you"?—A. Yes.

Q. Did Mr. Reimer say "Do you recognise any authority that a person suffering from parathyroid tetany could watch with one eye without double vision," and did you answer "Yes, the inference could be drawn from that text-book, but not in those exact words"?—A. Yes, I said that. 10

Q. "Would you be good enough to produce that to me," and you said "Yes, I will"?—A. Yes.

Q. You then went away to get the book?—A. In the luncheon adjournment, yes.

Q. Do you say you had the book there with you?—A. I think counsel had it on the table.

Q. Do you say you produced it and dealt with the matter straight away?—A. No, I did not say that.

His HONOR: Look at line 18.

Mr. CASSIDY: You are not suggesting that you were rushed before you gave your succeeding answers—you had time to look at the book?—A. You cannot look at a book when giving evidence—you might have to turn back pages and you cannot remember. 20

Q. Are you suggesting to the jury that you looked at the book in the box?—A. No.

Q. As a matter of fact, you asked for some time to look at it?—A. Yes.

Q. Mr. Hardwick stated "We have the book here" and it was handed to you and you said "I am afraid you will have to give me a little time afterwards when I am out of the box to look it up"?—A. That is correct. 30

Q. That time was allowed you?—A. Yes.

Q. After some time you came back into the box?—A. After lunch.

Q. You had abundant time to look it up?—A. No, you cannot have abundant time to look through a book.

Q. You had the book in Court and you swore to Mr. Reimer that you had a note of the authority which showed that?—A. Yes, and the Judge would not accept it—he said "I want the exact words."

Q. You said to Mr. Reimer, page 288, when he asked you did you have a note of authority, you said "Yes"?—A. Yes, I had a note of the page but I did not have the quotation down. The Judge said "The book must speak for itself—it does not matter what your recollection is, I want the exact words," or something like that. 40

Q. You had a note of the page?—A. I think so.

Q. You had the book in Court? And had time to read it?—A. No. You have not very much time in the luncheon interval—you have to have lunch and see counsel, and you have not much time to look up references.

Q. Did you look at that page?—A. I looked at it some time.

Q. When you came back was this question put to you by your own counsel, "page 588 of the book, I am showing you that page"—did you say "Yes, that is the inferential passage I was relying on"?—A. That is so. 50

Q. You were asked "The whole of the passage," and you said "Particularly from words 'one side of the body or confined to a particular limb' "?—A. Particular limb or part.

Q. I am reading what is here: The word "part" is not there. The Judge then asked you to mark the passage?—A. Yes.

Q. And you marked it?—A. I do not know whether I marked it.

Q. And you read it?—A. As far as I remember, I read it.

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10 Q. The question was: "Read the passage you rely on"—That is by His Honor: and you read this: "The feet are next affected"?—A. Will you show me the book?

Q. You can have your book if it is there?—A. It is "Allbutt's System of Medicine."

Q. This is what is on the notes: "The feet are next affected, or in rarer instances the spasms begin in the feet and is either limited to them or spreads later to the upper limbs, page 588"?—A. Yes.

Q. "In some instances the two limbs on the same side of the body are affected, the opposite limbs being free. In other cases one upper or one lower limb is affected alone. Still rarer occasions there is an alternation, the upper limb being affected on the one side and the lower on the other"?—A. My reference stops at "other."

20 —A. My reference stops at "other."

Q. You were asked: "Any other part you want to read?" and you said "No"?—A. Yes.

Q. Then "That is the authority upon which you rely for your cross-examination?" And you replied "For the localisation of the spasm, yes." Was that your answer?—A. Yes.

Q. Mr. Reimer was asking whether it is possible for a person to have a spasm on one side and not on the other side, and squint on one side and not on the other—the object of this is to show that you can have symptoms on one part?—A. Yes.

30 Q. His Honor said: "As a student of the English language I suggest that passage refers to limbs," and you said "Yes"?—A. Yes.

Q. "'Limbs' means arms or legs," and you said "Yes"?—A. Yes.

Q. "Anything else"—you said "No, I can give Mr. Reimer the specific thing he asks for only by inference"?—A. Yes.

Q. At page 292 His Honor again: "There seems to be some confusion with regard to Allbutt's System of Medicine. There was a statement 'I had the spasm in the left eye only—the right side was quite all right.' The passage you read from Allbutt was to support the statement that that could happen." Your answer was "Only inferentially." That is

40 Allbutt, page 588 at the bottom?—A. That is correct.

Q. This is from Allbutt: "In some instances the two limbs on the same side of the body are affected, the others being free. That means the arms and legs." You said "Yes"?—A. Yes.

Q. "Anything other than that"—you said "No, it is only inferential"?—A. Yes.

Q. "On rarer occasions there is an alternation, the upper limb being involved on one side and the lower on the other." You said "Yes." Then His Honor said "Rarely the spasms begin in the trunk muscles—still more rarely it begins in the face." Then you were asked: "Is that

50 the whole of the passage you rely on for one eye to be affected and not the other eye." You said "Yes, only inferentially—I wanted to point to a certain part that could be picked out"?—A. Yes.

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Q. You said you explained this matter at page 334 ?—A. Localisation, yes.

Q. I show you this book, Cecil's Text-book of Medicine—you see the authors to that book ?—A. Yes.

Q. Do you recognise it now as a book of high authority ?—A. I do not know.

Q. Had you ever seen it before this case ?—A. The value of a book does not depend upon its size.

Q. Looking at the book now and seeing the authors, will you agree that it is a book of high authority ?—A. It might be. 10

Q. That is all you say ?—A. Yes.

Q. Do you know it at all ?—A. No.

Q. Have you ever read any portions of it ?—A. No.

Q. Never heard of it until this trial ?—A. Never.

Q. I am told that this passage has some bits in between, so I will have no trouble about the full passage—this is the passage that was read to you in full dealing with hysteria, page 115 : “ Sometimes the ocular muscles are affected and we have diplopia, strabismus and spasmodic oscillations of the eyes ” ?—A. I do not remember that.

Q. You heard me read it out ?—A. No, I do not remember you 20 reading it out.

Q. Will you agree that that passage was quoted to you ?—A. I do not remember any passage like that being quoted to me.

Q. You understand what it means ?—A. Yes.

Q. It means that in hysteria you get a spasm in the eyes ?—A. Yes—it means that in hysteria you may get spasms in the eyes.

Q. And yesterday we got the incident described this way : “ Q. You said something about the eyes ?—A. This tube or the exudation or both at that particular time pressed upon the carotid artery or vein or both ” ?—A. I think I said “ May ” have pressed. 30

Q. I am reading what is reported that you said to your counsel : “ This tube or the exudation or both at that particular time pressed upon the carotid artery or vein or both, interfering with the blood supply on the left-hand side above. That would account for the strong spasm of the facial muscles here. This orbicular muscle and the action on the ocular muscles. And it would also account for the fact that at the time she had little or no spasm in the eye ” ?—A. I remember that.

Q. In other words, it was a localising action—it localised the spasm ?—A. Yes.

Q. Where do you say the tube was then ?—A. It was on the left 40 side of the pharynx.

Q. Down in the neck ?—A. No, up in the neck.

Q. What part of the neck do you suggest it was pressing then ?—A. Below the lower jaw.

Q. Where you point with your finger ?—A. I show the area—just about there.

Q. About an inch under the jawbone ?—A. I am not going to be accurate as to the exact dimensions, but it was in that vicinity.

Q. What length are you assuming it ?—A. I am not assuming anything. 50

Q. If it is pressing on the carotid artery in the area you say ?—A. In the vicinity.

Q. And if it is two inches long?—A. I did not say that.
Q. Assume for the moment that it is two inches long and that the area is affected, a surgeon could not help noticing it?—A. Some might not notice it.

Q. Would you?—A. I do not know—it depends on the size.

Q. But if it was two inches long it would be a big size?—A. Not necessarily.

Q. The tube would be coated with pus?—A. It might be.

Q. It would be?—A. Not necessarily. It might be in serous exudation.

10 Q. But it could not be moved?—A. If it was in fluid it could be moved.

Q. Up?—A. Any way.

Q. It could be moved without destroying the tissue it moved through, could it?—A. It might.

Q. Physiologically, do you say that is possible?—A. Certainly. Take a breast abscess—you might get a pint of fluid in the breast.

Q. But you have no foreign body in the breast?—A. That does not matter—I say it could move without destroying the tissue.

Q. You know the breast illustration has nothing to do with it?—

20 A. I do not know anything of the kind.

Q. On the last occasion you said a germ was a foreign body?—A. So it is.

Q. And you put a germ in the same category as a tube or a bullet?—

A. I put it in the category of foreign bodies.

Q. That, of course, is a germ that causes the trouble in the breast?—

A. The germ causes the infection. It does not cause all troubles in the breast, but it causes inflammatory troubles.

Q. Do you know when this eye incident took place?—A. No, I do not remember the exact date of it.

30 Q. Would not that be a bit important?—A. If I could find it out it might be.

Q. Have you tried to find it out?—A. Yes.

Q. Have you failed?—A. Yes.

Q. Whom did you ask?—A. I do not know whether I asked Mr. or Mrs. Hocking.

Q. Did you not think the time important?—A. It might be.

Q. Was it close to the 2nd October?—A. I do not know.

Q. Would that not be important?—A. Not necessarily.

40 Q. If it is alleged that the eye incident took place right up to the 2nd October—A. It is not alleged.

Q. You know when it was?—A. No.

Q. Does it not enter as an important matter into your calculations, the approximate time it occurred?—A. No, not necessarily.

Q. So it might have occurred say within three weeks of the operation?—A. I do not think that is likely.

Q. It might have occurred within two months of the operation?—A. I do not think that is likely.

Q. It might have occurred within six months of the operation?—A. It occurred later on.

50 Q. Might it have occurred within six months?—A. I do not know. It occurred possibly during the quiescent period, and possibly some time during the last active period.

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Q. The eye incident only occurred once?—A. Yes.
Q. It could not have occurred twice?—A. I did not say it occurred twice.

Q. What time did you put it—the last active period?—A. I do not know.

Q. When you say it might have occurred in the last active period, do you mean before 2nd October?—A. The last few months before October.

Q. The last three months?—A. I do not know.

Q. Will you give me a guess?—A. No.

Q. Is it not important to know when it occurred?—A. If you could find out, it might be.

Q. When did Mrs. Hocking tell you it occurred?—A. She did not tell me—I saw it in the notes. I do not think I heard her say at any Court—I think the first time I saw that was in the notes.

Q. When do you say the first quiescent period was?—A. I cannot say exactly. In this condition there was first—

Q. What period?—A. I cannot say accurately.

His HONOR: You are asked to say approximately?—A. I should say after the first week or first few weeks it became quiescent for months— 20
varying of course with slight exacerbations and then quietness, and then there was a final active stage.

Q. Is your interpretation that it was quiescent for the greater part of the period?—A. Relatively quiescent—varying.

Q. You know that the wound healed while Sister Sly was there and before she left?—A. What date was that?

Q. She came out of hospital at Quirindi on the 9th June 1938 and she left 7th July?—A. Yes, I think it closed at the end of June.

Q. You know that at that time there was no swelling?—A. I do not.

Q. Who was it said there was swelling?—A. Mr. Hocking, Mrs. Hocking, 30
Dr. O'Hanlon, and I think Sister Sly as far as I remember.

Q. Was it gross swelling?—A. I did not say it was gross swelling.

Q. What kind of swelling was it?—A. I do not know.

Q. How long after that did the eye incident occur—could you guess that?—A. No.

Q. It occurred either in the last active period or during the period of quiescence?—A. Probably.

Q. You will agree, will you not, that you have gone through these hospital records very carefully?—A. I have gone through them carefully.

Q. You selected, for example, when dealing with her condition in 40
Quirindi, and gave to Mr. Shand in chief that fomentations were applied frequently during the first period?—A. I do not know about the first period, but they were applied frequently at different times.

Q. You inferred from that that some infection was still in the wound?—A. Yes.

Q. And you relied on the hospital records for that information, because it gave a record of the fomentations being applied?—A. Relied on the hospital records for what information?

Q. That hot fomentations were applied?—A. Yes, I assumed the records were correct.

Q. This is the position equally which you did not put, that after the 25th May no hot fomentations were applied?—A. I do not think I was asked. 50

Q. Do you think that was quite fair to these gentlemen trying to follow the case?—A. I was not conducting the case.

Q. If you accept the records as being correct when they show slight fomentations were applied, the fact that the record shows they were not applied after that date—the only inference is that the neck was getting right?—

A. That is not the only inference.

Q. Do you draw any other?—A. No, but another inference could be drawn.

Q. Was it not a reasonable inference that the neck was getting right?

10 —A. Not necessarily. The doctor might have thought so.

Q. Add this, that before Matron Sly left at the end of June the whole wound was cleared up—you have that totality of circumstances?—

A. I do not know—what do you mean by “wound”?

Q. What do you think?—A. I do not know.

Q. The hospital records show no hot fomentations applied after the 25th May?—A. I do not know.

Q. But you have seen the records?—A. I cannot remember everything.

Q. Did you not look at the matter as a whole?—A. The fomentations were not of any great importance—they were of some importance.

20 Q. You put them forward as showing the nature of the infection?—
A. No, I put them forward to show that when fomentations are put on frequently like that the doctor concludes that the condition is a little more marked than usual.

Q. If they cease and if that is followed up within a few weeks that the sinus heals?—A. They did not cease, because she had dry dressings on.

Q. But dry dressings shows improvement?—A. It should.

Q. But it does?—A. No, it should.

Q. Why does it not in this case?—A. It all depends on the doctor. Different doctors have different ideas, and different methods.

30 Q. If it was followed by the sinus healing as the Sister declares and the health improving, is not the only fair inference from that that the neck was right?—A. No, I do not admit that, because first of all there is an assumption there that the dry dressing was put on before the sinus healed, and that is not correct.

Q. Why—are the hospital records wrong?—A. No, the hospital records to the best of my recollection say that the dry dressing was put on at the end of May and during June, and the wound did not heal until the end of June.

40 Q. You have got a good memory for those records?—A. I remember something about the dry dressing for this reason, that it is quite possible that the application of that dry dressing prevented the sinus discharging, and that might very well account for a spasm coming on—locking it up. With a dry dressing the serum coagulates on the dressing and corks it.

Q. But you would have the spasms before that—that is the answer to that?—A. No, it is not.

Q. You had the spasms on two dates before?—A. Yes, but the wound was more active then.

Q. The 1st June was the last spasm in hospital?—A. No.

50 27th June. Q. There was the one after that?—A. I think there was one on the

Q. She was not in hospital then?—A. No, but I think there is a reference by Dr. O’Hanlon—to the best of my recollection there is a

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reference somewhere to the fact or supposed fact that there was a spasm on the 27th June.

Q. Can you point to it?—A. Well, I will look it up for you.

Q. I suppose you heard Sister Sly give evidence?—A. Part of it.

Q. Did you hear Mrs. Hocking give evidence?—A. Part of it.

Q. Did you hear Sister Sly say her health had improved?—A. I think she said her health varied.

Q. Did you hear her say that at the time she left her health had improved?—A. I do not remember that.

Q. No swelling—no inflammation?—A. Yes, and I also remember 10 her saying there was swelling. With regard to inflammation, she is hardly a judge.

Q. What?—A. I am sorry—I was thinking of the woman looking after the house, the lady who relieved her.

Q. Mrs. Fisher?—A. Yes—you are talking about Sister Sly. I am sorry—I withdraw that. I had Mrs. Fisher in mind.

Q. Will you agree that the period of quiescence was over a year?—A. I said relative quiescence.

Q. When do you say that started?—A. I cannot say exactly, but I should say a week or two or a few weeks after the operation. It might 20 be several weeks.

Q. But by the end of June 1938?—A. I think it was tending to become quiescent then.

Q. You realise that she went into hospital for the spasms on the 3rd September 1938?—A. Yes.

Q. And you have seen from the hospital records there no suggestion of anything wrong with the throat?—A. I do not think the records say there was anything wrong, but they do not say there was nothing wrong with the throat.

Q. The records suggest no treatment for the throat?—A. Neither 30 one way nor the other.

Q. Do you not accept from that that there was nothing wrong?—A. No. It is just a nurse's entry.

Q. There is not the slightest reference to anything wrong except the spasms?—A. That is an ordinary routine entry.

Q. But you accept that?—A. I may accept them as far as they go.

Q. As far as they suit you you accept them?—A. I did not say that.

Mr. CASSIDY: Not as far as they suit you?—A. I did not say that.

Q. You heard the Plaintiff say those spasms were in both eyes?—A. I don't remember that. 40

Q. Do you remember the Plaintiff saying—A. You say "those spasms," what do you mean by those spasms?

Q. The eye spasm, so that there won't be any doubt?—A. I don't remember that.

Q. Haven't you been putting it that the spasm affected both eyes?—A. I thought she did have them in both eyes at times.

Q. That is right?—A. I don't know whether it is right. I have an idea she had them in both eyes. I don't remember.

Q. That is what she said, didn't she?—A. She may have said it.

Q. Sometimes one, sometimes the other?—A. I don't remember. 50

Q. Sometimes one, sometimes the other, sometimes both?—A. I don't know. I was not in Court the whole time Mrs. Hocking was giving evidence. I think most of the time I was not there.

Q. You have read her evidence, haven't you?—A. There are over 1,000 pages. I could not remember it all.

Q. Sometimes one, sometimes both, is that right?—A. I don't know whether it is right. I don't know whether she said that or not. She may have done. I don't know.

Q. "I don't doubt that. You mentioned also the rolling back of your eyes, sometimes one eye and sometimes both eyes?—A. Yes." And then later "You told us you had that experience with both eyes?—A. Yes." Do you remember her saying this, that she had the experience 10 of watching one eye roll back and she had that experience with both eyes, that is one eye watching the other roll back?—A. No, I don't remember that. Is this what Mrs. Hocking was saying?

Q. Yes?—A. I don't remember that.

His HONOR: Do you remember reading that when preparing yourself to give evidence?—A. No.

Mr. CASSIDY: I will read you the whole of it. You remember that I put to you the question before, I started with this: "Q. I do not doubt that. You mentioned also the rolling back of your eyes, sometimes one eye and sometimes both eyes," and you answered "Yes." And now 20 we go on: "Q. Did you watch for it in a mirror?—A. No, but I knew they were pulled back. Q. How did you know that?—A. I saw one eye pulled back. Q. How did you see that?—A. I was sitting in the room alone and I put my hand to see what was happening and my eye was pulled back, I put my hand on the bell and called the nurse, but the eye was coming back when the nurse got there. Q. One eye was looking in the mirror and the other eye wandering away?—A. The muscles were pulling it back. Q. Was it back from the lid or looking round the back door or somewhere?—A. It seemed to be inside out. Q. Was it 30 turning into the upper lid or lower lid or what? You watched it with the other eye?—A. I did not really have a good look at it. Q. You are telling us that you watched one eye disappear?—A. The eye was coming back, I do not know how it got there. Q. How did you know your one eye was not functioning properly?—A. I could feel it. It was painful. Q. Anything else?—A. You could not see. Q. Could you see two wards with two beds?—A. No. Q. You did not have double vision?—A. No, I did not. Q. And this happened during a spasm?—A. No, not during a spasm. Q. When did it happen, while you were having lunch, or what?—A. No, I would have slight spasms. Q. Only in your eye?—A. On that occasion it was only in the eye. The doctor was not called immediately 40 on that occasion. Q. Where was this mirror?—A. On the cabinet by the bed. Q. You could pick it up quite all right with your hand?—A. Awkwardly. Q. You did not have a spasm in your hand?—A. Not very much at the time. Q. Did you have a spasm at the time?—A. A spasm in the face. Q. I am asking you in your hand?—A. A very little one. Q. At the very same time that you noticed this pain in the eye?—A. Yes. Q. Which caused you to pick up this mirror with your hand and look?—A. Yes. Q. And when you looked you saw one eye turned back and you saw it coming back to normal?—A. I did not see it coming back there. I was speaking to the nurse of what happened and she rushed 50 off to the matron. I do not think she saw it coming back either. Q. You told us you had that experience with both eyes?—A. Yes. Q. How did

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you know that?—A. I felt both eyes pulled back and I could not see.”
You see there it is either eye?—A. One eye or both?

Q. Either. Has it ever been put down that it is the left only?—

A. Has it what?

Q. Has it ever been said that it is the left only?—A. Yes, I think so.
I don't think there is any doubt about it.

Q. If it is the explanation that you gave yesterday for the first time
it would only affect the artery it was against, and it would only be the
eye on that side?—A. It does not follow.

Q. That is your answer?—A. Of course it does not follow. 10

Q. So if it is pressure against the left carotid artery it could make a
spasm in the right eye?—A. I did not say that.

Q. Didn't you say that?—A. No, of course I did not, not the right
eye, the left eye.

Q. This woman has sworn that the spasm came in both eyes?—A. Not
at the same time. You could not have one eye affected and two eyes
affected at the same time, different occasions.

Q. So it would be the pressure on the left carotid artery which caused
it in the right eye when it was in the right eye?—A. No, I did not say
that. 20

Q. What would cause that in the right?—A. Generalised spasm.

Q. Are you serious in that?—A. Perfectly.

Q. When did you think of it first?—A. I did not have to think of it.

Q. Why didn't you give it on two previous occasions?—A. I was
not asked.

Q. Didn't you tell me a moment ago you forgot it?—A. No.

Q. When did you think of this explanation yesterday first?—A. I
think it occurred to me since this trial has been on.

Q. And it was an obvious thing?—A. What was obvious?

Q. The explanation you have given?—A. No. 30

Q. Didn't you tell me a moment ago that it was obvious?—A. I did
not. It is not an obvious explanation. It is not obvious to your witnesses.

Q. It was obvious to you as a doctor?—A. I did not say it was
obvious, but that is my explanation of it.

Q. Didn't you say a while ago that the explanation was obvious?—
A. I don't think so.

Q. So it took some thinking out?—A. I have been studying the case
and new points come to one.

Q. When did that new point come to you?—A. I think during the
last week or two. 40

Q. And had you overlooked it until then?—A. Yes, I found it rather
difficult to explain the localisation of the spasm, and I tried to think of
some way in which it could be explained and I think it undoubtedly can
be explained that way.

Q. Did you explain it a different way to Mr. Justice Maxwell?—
A. No.

Q. No different?—A. I did not explain it to him—well, I explained
it this way, that the point in the case was this: here was a localisation
of spasms and the question was how could it be accounted for, and my
references showed that that spasm could be localised to one side of the 50
body and to one part of one side of the body, so if it can be localised to
one part it can be localised to another.

Q. Before you went to Court you studied that page of Allbutt?—
A. Yes.

Q. You did not quote it this time?—A. I have not been asked. I have not been asked about Barr either; I have a reference there to localisation of muscular contraction.

Q. And you are ready for it, are you?—A. Yes.

Q. Did you use Barr last time?—A. Yes, but I forgot about it, a bad memory.

Q. Does that often affect you?—A. It has throughout life. It is
10 one of the disadvantages of a doctor to have a poor memory.

Q. I want to go back to the anatomy. If you had learned your anatomy—A. If I had learned it? I have learned it.

Q. Have you got a bit rusty in that?—A. Yes, we get rusty in things.

Q. And you are a little rusty on some aspects of it, aren't you?—
A. I might be.

Q. And a bit wrong?—A. I don't admit that.

Q. You don't admit it?—A. No.

(Short adjournment.)

20 Q. I was asking you about your anatomy, your knowledge of anatomy before you left the box. Did you swear on the last occasion that the distance from the upper end of the thyroid gland to the tonsil was just about half an inch?—A. No, I think I said it might be half an inch or an inch, something like that. It depends on where the foreign body was.

Q. But Doctor, it does not depend on where the foreign body was, it is the distance from the upper end of the thyroid to where the tonsil is?—A. Did you say thyroid or the thyroid cartilage?

Q. "A. The distance from the upper edge of the thyroid to the tonsil would be about half an inch"?—A. I might have said that.

30 Q. And it gives a most misleading picture to the jury, doesn't it?—
A. No.

Q. Do you still adhere to that statement?—A. Yes, it might be half an inch or an inch.

Q. In an adult?—A. Yes.

Q. I put it to you there that you were deliberately shortening that distance to endeavour to show how it could get easily to the tonsil?—
A. Certainly not.

Q. Could it be a quarter of an inch?—A. From the top of the thyroid gland to the tonsil—hardly.

40 Q. Did you say "The distance from the upper end of the thyroid gland to the tonsil I would say, is just about half an inch"?—A. I may have said that.

Q. Is it right?—A. It might be.

Q. And it might be wrong, mightn't it?—A. It might be.

Q. And very wrong, very much out?—A. No, not very much out if it is out.

Q. In this operation, do you know you get the tube as close to the collarbone as you can?—A. The collar incision it is called.

50 Q. Do you know you put the tube in as close to the collarbone as possible?—A. No, near the collarbone.

Q. As close as is possible?—A. No, near it.

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Q. The breastbone, I mean. Do you know the reason?—A. I don't know any particular reason.

Q. But you know that is what the surgeon does?—A. Some surgeons.

Q. You don't know others who put it in anywhere else?—A. Yes, different incision, they have a lateral incision.

Q. It is not a lateral incision, is it?—A. You said thyroidectomy.

Q. We are not talking about removing one lobe of the thyroid?—

A. You said thyroidectomy, that is thyroidectomy, removing one lobe.

Q. Take this case I am referring to. You know that in this case you put it as close to the breastbone as you can?—A. I don't know that. 10

Q. Will you agree that that is the surgical practice?—A. Near the collarbone with that incision; Kocher's collar incision.

Q. And the way you suggest this one is like that (indicating)?—

A. Obliquely backwards and obliquely upwards.

Q. Somewhat after the style of my finger?—A. Somewhat.

Q. If we have half inch out, that is seen, that means the balance of the tube has to cross the trachea?—A. Yes.

Q. If half inch comes out in the surgeon's hand and there is half inch out that she sees you have then about three-quarters inch gone?—A. I am not admitting that at all. She was seriously ill at this time. She is not 20 a trained observer, she says half inch.

Q. Her husband says half inch?—A. He is not a trained observer. He did not have a tape measure and measure it, very rough.

Q. Would half inch be out?—A. Maybe.

Q. I suppose you will agree if Dr. Bell pulled once and nothing happened that would cause considerable pain in the area?—A. It might or it might not.

Q. If he pulled a second time it would cause considerable pain?—A. Not necessarily.

Q. If he put his hand on her head and pulled, that would indicate 30 that there must be some resistance?—A. Not necessarily.

Q. Wouldn't it to an ordinary reasonable person?—A. Well, what is a reasonable person? Many people are very unreasonable.

Q. But your view is that that does not necessarily mean if the doctor had to pull three times there must have been resistance?—A. There might have been resistance and there might not.

Q. You accepted the records of St. Luke's?—A. I accept them for what they are worth, yes.

Q. But you have accepted them for the purpose of forming conclusions?—A. Yes, they are only written by nurses, they are not 40 necessarily absolutely accurate.

Q. But you have proceeded on that, haven't you?—A. I think they are substantially accurate.

Q. And you have advanced a conclusion on premises contained in those records, have you not?—A. Yes.

Q. And you don't say that you accept them in part and discard them in part, do you?—A. No, I have to take them as they are and draw my inference from them.

Q. You heard the Plaintiff say that the tube was only touched by Dr. Bell on one occasion?—A. I don't remember that. 50

Q. You may assume that is what she said. You saw in the hospital notes that the tube was removed on the 17th?—A. Yes, it should not have been.

Q. What?—A. It should not have been, not if it were draining.

Q. Do you say that?—A. Yes, in view of what had happened at the operation and the likelihood of infection that tube should have been left in a little longer, because the surgeon could have very well anticipated some infection.

10 Q. Do you know the whole of the practice of the surgeons is to get that tube out within 48 hours?—A. I don't know that. It is not true.

Q. Are they all wrong if they do it?—A. It is not true.

Q. Do you say that?—A. Yes.

Q. Have you ever seen Dr. Poate operate?—A. No.

Q. Do you still say it is not true?—A. Yes, I will produce Johnson's text-book to prove that it is not true and that it may be left in for three days under certain circumstances.

Q. When was Johnson's text-book published?—A. I don't know.

Q. You say that if Dr. Poate says that, it is not true?—A. Says what?

20 Q. That the tube comes out in 48 hours?—A. That may be his practice.

Q. You heard Dr. Bell say that also?—A. I don't remember.

Q. Would you set yourself up on the question of practice as knowing as much as they do?—A. I am not setting myself up. I am merely saying this, that under certain circumstances, a practice which may be usual may be modified, that is all I am suggesting.

30 Q. Do you suggest on what you have seen that Dr. Bell should have left that tube in longer?—A. That is a matter of opinion. I think you can always be wise after the event, but I think in view of the likelihood of the infection and trouble it would have been wiser to have left it in longer as events proved it was necessary.

Q. To have left it in longer?—A. Yes, as events proved.

Q. What was the likelihood of infection?—A. The long operation, two or two and a half hours, pulling the parts about.

Q. Those operations are usually long, aren't they?—A. No, about one hour.

Q. About one hour?—A. Yes.

Q. But they often become longer?—A. With a good surgeon and an ordinary case an hour should be enough.

40 Q. I suppose Dr. Poate and Dr. Edye and Dr. Bell should have some idea about how long they would take?—A. Yes.

Q. And a better one than you?—A. Yes.

Q. You know, do you not, from Dr. Poate's evidence, that he has done 6,000?—A. I am surprised to hear that large number.

Q. Do you disbelieve it?—A. No, I don't disbelieve it, but I think—well, I won't say what I think.

Q. You have never done a toxic goitre, have you?—A. Not myself, no, anyhow, that does not make any difference whether it is toxic or not. The general principles for the removal of the gland and the drainage are all the same.

50 Q. Does not the toxic nature of the gland affect the operation?—A. No more than it does with an ordinary adenomatous goitre, because you do not remove the whole of the thyroid. In view of the long operation

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and the pulling about necessarily involved and the exudation, it was probable, or likely, that there might be inflammation there, and that being the case the tube should have been left in longer, because ordinarily the tube is not put in for drainage of pus, it is put in for drainage of thyroxin and exudation, blood and serum, that is the explanation of that.

Q. What pulling about?—A. Dr. Bell had a lot of trouble with the superior thyroid artery, possibly it may have taken half an hour. It took up a long time, otherwise the operation would not have occupied two or two and a half hours, because this was apparently not a very large thyroid.

Q. I suppose you know that one of the things that may take a little 10
time in the operation is whether or not the patient became properly sedated before going to the theatre?—A. That is done beforehand, a quarter of an hour would be ample.

Q. But that, of course, must happen sometimes?—A. It might.

Q. And of course the essence of good surgery at times is that the man must proceed carefully and slowly?—A. No, I don't admit that if a surgeon is very experienced, as a result of his experience he should be dexterous and quick, but of course he should not sacrifice everything to speed. Naturally he is quicker than a man who is not so experienced, a man who does a large number of thyroidectomies ought to be dexterous. 20

Q. Dexterous certainly, but skill lies in being careful, doesn't it?—A. A good surgeon would not rush an operation unless the patient was in desperate straits.

Q. I suppose an important thing for a surgeon is after-treatment too?—A. Yes.

Q. And after-treatment presupposes that the surgeon must have a great knowledge of the particular operation?—A. Not necessarily a great knowledge; frequently house surgeons attend to the after-treatment and have not a great knowledge.

Q. In this case we have Dr. Bell doing the after-treatment?—A. Yes, 30
but in public hospitals the house surgeon attends to that.

Q. After-treatment is important, particularly in thyroidectomy?—A. There is nothing very much in the after-treatment in an ordinary plain, straightforward thyroidectomy. There is nothing very much in the after-treatment, apart from complications.

Q. Is not the experience of surgeons, when they have a thyrotoxic condition in that area, in that cavity, they are always frightened of aftermath, frightened of the aftermath in this area?—A. I don't agree with that at all, because these days the operation is done early. In the olden days these cases used to be allowed to get into an advanced state 40
and then they used to have some trouble.

Q. So it is limited to the old days?—A. Yes, they have improved very much so far as the surgery of the thyroid gland is concerned.

Q. When did you see the last?—A. I don't remember.

Q. Have you read Dr. Bell's treatise on the technique of the operation?—A. No, I have read an article by Dr. Poate in the Australian Medical Journal.

Q. Coming back to the tube, the object of the tube is to be at the bottom of the wound, is it not?—A. The outer end is at the bottom.

Q. And to keep the inner end too at the bottom?—A. No, I don't 50
admit that.

Q. Do you say you would poke it up to the top?—A. I would not go poking about in the body.

Q. Do you say it goes upwards?—A. Backwards and upwards, you can see that from the illustration in Johnson's Surgery.

Q. Is not the drainage down?—A. Yes, from the thyroid capsule down the obliquity of the tube.

Q. And is not the object of leaving the opening in the tube to collect—the patient is kept up in bed resting in that fashion (indicating)?—A. It might be.

Q. Is, I put it to you?—A. Might be.

Q. With the chin slightly down to prevent any tension on the cut?—

10 A. It is advisable.

Q. And that is the position in which they are put into bed with bags behind them?—A. Maybe.

Q. And the object is to keep them in that position so that you will get the drainage down, is it not?—A. No.

Q. What?—A. No.

Q. Are you serious in that statement?—A. Yes.

20 Q. And the tube—A. If that tube is put in properly it does not matter very much about the position of the patient, because if there is free drainage from the tube the exudate will come out even if you had the patient upside down. If the tube is draining properly the exudate must escape.

His HONOR: Are you suggesting that the patient should be put upside down?—A. No, I am taking an extreme case.

Mr. SHAND: The witness never suggested anything of the kind; he is giving an illustration that it is so independent of position that even if the patient were put upside down it would not matter.

Mr. CASSIDY: The position, in the way that the patient is put, becomes important?—A. Of some importance.

Q. For drainage?—A. Of some importance.

30 Q. Because you know in your own mind in certain matters the patients are put upside down to get drainage?—A. They may be.

Q. That is to say, the doctor deliberately puts them upside down so that the drainage instead of going down will go up?—A. No, I am not admitting that at all.

Q. You know what I am referring to?—A. Yes, retropharyngeal abscess.

Q. The next thing is the purpose of the hole that is cut in the tube, that is to assist to keep your drainage going?—A. You mean the diamond cut?

40 Q. Is that a diamond cut?—A. Well, you often put a diamond cut in a tube.

Q. I don't mind what you do?—A. Of course not.

Q. Never mind your own, take the one used?—A. That is an alternative in case one gets blocked. I would not put it so near the end, because there would be no purpose in doing that.

Q. I suppose doctors know—A. They differ.

Mr. CASSIDY: You really would not go and do a toxic thyroidectomy, would you?—A. I don't believe in them. I don't believe in operating for exophthalmic goitre.

50 Q. So you would not do one?—A. Not now.

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Q. I thought you said that doctors performed them well now?—
A. I said surgeons who operate—the technique has improved considerably, and also they operate on them earlier.

Q. You know that her condition in 1937 was so bad that she was only allowed up for half an hour?—A. I don't agree with that.

Q. Don't you know that in October 1937 she was only allowed up half an hour?—A. I don't remember that. That does not prove that she was desperately ill.

Q. Don't you know that Dr. Ritchie said that she was in a dangerous state?—A. No, I don't remember that. He said, as a matter of fact, 10 that this was not a very obvious case.

Q. You heard him, didn't you?—A. I did not.

Q. You just told me that he did not say the words I put to you?—
A. It is not in the evidence, as far as I know.

Q. You have read it?—A. I don't say that I have read that, but it is to the best of my recollection that Dr. Ritchie's remark is not in the evidence.

Q. You have challenged me and you have said that I may have said something that was wrong?—A. I did not challenge you.

Q. Do you say that you did not hear that this woman's condition 20 was extremely serious—dangerous?—A. No, and it was not.

Q. How do you know?—A. I know.

Q. What weight was she?—A. Are you referring to in 1937 or 1938?

Q. In 1938 when she was sent down to Dr. Ritchie she was a very sick woman?—A. No.

Q. What do you say she had?—A. She had no exophthalmos. The gland was not very large, and the pulse, after she had been a few days in hospital, was nearly normal.

Q. Do you know what the pulse was when Dr. Bell took it?—A. 130.

Q. Was that normal? The normal pulse is 72, isn't it?—A. Yes. 30

Q. And after the operation it was 110?—A. When I examined her it was 104. When a patient is being examined the pulse beats more rapidly.

Q. After the operation her pulse was round the 110 mark, wasn't it?—A. Before the operation the pulse was below 100—that was before the operation.

Q. And her pulse never got to 130 during what you call moderate infection?—A. I don't know.

Q. I want to come back to this. Did you hear Dr. Welsh, from his reading of the records, say that she had an obvious toxicthyroid?— 40
A. I don't remember that.

Q. If he said it, would that be right? That was in 1937, that she had an obvious toxicthyroid?—A. That is a matter of opinion.

Q. You say that that is a matter of opinion?—A. Yes.

His HONOR: Your opinion is that she hadn't?—A. No, I don't say that, but I say that it was not a bad case.

Mr. CASSIDY: It was not a bad case?—A. No. I think she had exophthalmic goitre, but not in a bad form.

Q. Don't you know that when Dr. O'Hanlon sent her down her pulse was 150?—A. I don't know that. 50

Q. Would that alter your opinion?—A. That depends on the observer and the circumstances under which the observation was made.

Q. Taking it as it stands, wouldn't you take it at face value?—
A. No.

Q. What things do you expect—what you like?—A. No. Before she went down to Dr. Bell the pulse rate according to Dr. Bell was 150; then 130 later on when the condition should have been worse.

Q. Would you take it that it was 150?—A. I don't know. I don't necessarily accept that.

Q. Do you say that she was not a sick woman when she came to Sydney?—A. I simply draw that inference.

10 Q. What weight was she when she came to Sydney in 1938?—A. I don't know.

Q. Wouldn't it be important to know?—A. It would be feature of the case. It might be important.

Q. If she was described in a letter by Dr. Ritchie as being in a wretched condition—(objected to).

Q. If she is in a wretched condition—(objected to).

Q. Assume that she is in a wretched condition?—A. Dr. Ritchie said—

20 Q. Answer the question. Assume that this was her condition—"Very wretched, lost much weight, thyroid gland prominent, very coarse tremor, clammy skin, very rapid heart rate, bundle of nerves, thyrotoxic"?—
A. Well, what does "Very" mean? It might mean different things to different people. That is not an accurate way of describing a thing—"very."

Q. What would that indicate to you if that was communicated to you?—A. Will you read it item by item?

Q. "Very wretched"?—A. Assuming that that was correct—

30 Q. Can't we take them all together rather than item by item? Don't you take the combination of things?—A. Very well—read them to me and I will try to remember them.

Q. "Very wretched, lost much weight, thyroid gland very prominent, very coarse tremor, clammy skin, very rapid heart rate, bundle of nerves, had been in hospital for weeks at complete rest, has been treated and is thyrotoxic"?—A. Well, if she improved like she did after the rest in the hospital—

Q. "Evidence of increased metabolism persisting, and heart rate 150"?—A. Well, if she had been so bad as that description implies she would have hardly improved as she did after a few weeks rest in hospital.

40 Q. But where did she improve?—A. Later on her pulse rate—it goes down to 88.

Q. Where did she improve—premedication treatment?—A. Yes, St. Luke's Hospital.

Q. That is one matter in which the physicians' experience comes in?—
A. Yes, and the surgeon's.

Q. And you know that she was in hospital for nearly a month before the operation took place?—A. I don't remember how long it was, but I think.

His HONOR: What do you mean by premedication treatment?

Mr. CASSIDY: That is the treatment before the operation.

50 The WITNESS: Yes; that is generally done in cases of Graves' Disease.

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Mr. CASSIDY : Do you still say that a woman in that condition is not a very sick woman ?—A. Assuming that that is an accurate description, I would not say that she was desperately ill. She might have been fairly ill, and another reason why I come to that conclusion is that Dr. Ritchie said the thyroid gland was not obvious. Dr. Bell said it was moderately obvious, and Dr. O'Hanlon, although he failed to diagnose it, said that it was very marked. So they all disagree.

Q. Do you say that he did not diagnose it ?—A. No ; he diagnosed it first of all as neurasthenia. That was a wrong diagnosis at first.

Q. Whose diagnosis ?—A. Dr. O'Hanlon's. He diagnosed her 10 condition as neurasthenia, which it was not.

Q. And then thyrotoxicosis ?—A. No. The symptoms he put for neurasthenia were really the incipient symptoms of Graves' Disease.

Q. That is what Dr. Ritchie said, did he not—page 248—“ I made an examination of her. I found that she was suffering from thyrotoxicosis. The degree was severe. If thyrotoxicosis is severe it is dangerous. It was dangerous in the case of the Plaintiff. She appeared to me a nervy, excitable, unstable type of woman. I gave her certain advice. I told her that the only means of cure was a surgical operation ” ?—A. And that is in contradiction to his original statement. 20

Q. In direct contradiction, is it ?—A. Yes. I have a clear recollection that Dr. Ritchie said at one part of the evidence that the thyroid gland was not very obvious.

Q. That evidence I read to you is in direct contradiction to Dr. Ritchie's earlier evidence ?—A. Yes. I don't say I heard it.

Q. Did you read it ?—A. Yes.

Q. It is something that you read ?—A. Yes.

Q. And it is something that you read in one of these trials ?—A. Yes.

Q. And you read something that contradicted that, did you ?—

A. Yes. 30

Q. Absolutely, did it ?—A. I think so.

Q. Do you remember that being said ?—A. No.

Q. You do not ?—A. No.

Q. But you read of it as being said ?—A. I may have done.

Q. Did it make an impression on you that the doctor had contradicted what he said before ?—A. Yes ; all the contradictions made a very striking one. It was full of contradictions.

Q. This is a striking one, isn't it ?—A. In fact I don't know anything that they do not contradict themselves on, except perhaps tetany and impossibilities. 40

Q. But that was a direct contradiction ?—A. Yes, I think so.

Q. It was inconsistent ?—A. I think it was inconsistent.

Q. Dr. Ritchie was an eminent physician with a very great deal of experience ?—A. No, I would not say eminent.

Q. But with a very great deal of experience ?—A. I believe so.

Q. And experience in this class of case ?—A. As a physician.

Q. And in this class of case ?—A. I don't know, it is the man that has the bedside manner that gets the practice.

Q. But these men don't go out to people. The people chase them, don't they ?—A. He is a consulting physician. 50

Q. Has Dr. Bell got a good bedside manner ?—A. I think Dr. Bell is a very charming man, a nice, good-natured individual. I am very

sorry that I have to appear against him. I tried to settle this case with him, but I have been unsuccessful.

Mr. CASSIDY : I ask that that be struck out and that the jury be told that that is a very improper remark to make.

The WITNESS : I don't think it is.

His HONOR : I have told you, not once, but on a number of occasions not to make remarks. As I have said before, you are an experienced witness and you know that you should not do that, and your last remark was grossly improper, and I tell you, gentlemen, to take no notice of it
10 whatsoever. You heard the last remark he made about his attempt to settle.

Mr. CASSIDY : Have you ever spoken to Dr. Bell in your life ?—
A. Yes.

Q. Have you ever worked with him ?—

Mr. SHAND : Your Honor, I hope you won't take it that I am acceding to your Honor's remark that it was grossly improper.

His HONOR : No, I do not. That is just my ruling.

Mr. CASSIDY : You realise that you said on another occasion that what was said against Dr. Bell here, leaving that tube in when he knew
20 it was in, was gross malpractice ?—A. I never said that.

Q. It must have been, mustn't it ?—A. I would not say that.

Q. But—a tube put as you suggest ?—A. Perhaps he could not have helped it at the time.

Q. But leaving it there when he knew the woman was sick ?—A. He might have had to leave it there.

Q. But what would have stopped him taking it out then ?—A. He could not get it out then ; it was so deep in the wound. You could not get a sinus forceps down there with all those muscles, and the proof of that is that they could not get a drainage tube in afterwards.

30 Q. Why not open it ?—A. It was too dangerous. The patient nearly died on the table. She came from the theatre semi-conscious with a rapid running pulse. She had to be given rectal saline, and she lost a lot of blood and I draw the inference from that that she was in a desperate condition.

Q. Nearly dead on the table ?—A. Did I say that ? If I said that I will modify that and say that she was in a desperate condition.

Q. You have never heard the doctor suggest that she was in a desperate condition as a result of that operation, have you (objected to) ?—A. I don't remember.

40 Q. Do you suggest that giving saline means anything in particular ?—
A. Yes.

Q. You do ?—A. Yes.

Q. Do you know that Dr. Bell gives it in every toxic thyroidectomy ?—A. I don't know that.

Q. Would you be surprised to hear it ?—A. Not necessarily.

Q. So that it might be the ordinary accompaniment of a doctor in thyroidectomy ?—A. It might be.

Q. So that you can eliminate that—the fact that saline is given ?—
A. No. I am taking them all together.

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Q. Her husband saw her on the second day, on his own evidence—
saw her and talked to her?—A. I don't know which day it was.

Q. On the 15th she was operated on and her husband saw her on the
16th and talked to her?—A. He may have. I don't know.

Q. Don't the very reports of pulse and temperature show that there
was no great loss of blood?—A. May I just add this to my previous
answer?

Q. Before you do anything answer this question. Don't the hospital
records of pulse and temperature negative what you say, that there was
a great loss of blood?—A. No. 10

Q. The temperature on the day after the operation was 99.4, was
it not?—A. Yes. No, there is no record of the temperature on the 15th
and 16th that I can find.

Q. Well, you may take it that the night temperature on the 16th
was 99.4?—A. No, the 17th.

Q. The pulse you have got, anyhow, haven't you?—A. Yes.

Q. The pulse never got up to the 132 that she had on admission?—
A. That is on the Thursday. On the 16th it was 100.

Q. On the 15th, the day of the operation, it never got up to 132, did
it?—A. Have you got the pulse record there? 20

Q. Yes. Have you been talking without knowing what the pulse
record on the day of the operation was?—A. I don't think I remember
the pulse record on the day of the operation.

Q. Wouldn't it be important to have it as an element in giving an
opinion?—A. It might be.

Q. Won't you admit that that is a very wrong thing to do, to give
that opinion without knowing what the pulse record is?—A. No.

Q. Does it mean nothing?—A. I gave that opinion on these facts—

Q. On the day of the operation when you say she was nearly dead,
don't you think it important to know what her pulse rate was?—A. It 30
might be.

Q. Not "might be." Can you do it without?—A. It is only one
factor.

Q. But it is a factor to show whether she lost blood or not?—A. Well,
if a person lost blood the pulse rate would tend to be increased.

Q. And don't you know that it never got up to 132?—A. I don't
know that, but I don't think it did.

His HONOR : Would you regard it as an important factor?—A. Well,
it all depends on circumstances—it might be.

Q. Is that a question that you do not think can be answered yes 40
or no?—A. I don't think it can be answered yes or no.

Mr. CASSIDY : When you gave that answer, I put it to you that
you left out a matter that I raised as one of importance?—A. I did not
leave it out.

Q. Well, what was it?—A. The pulse rate was increased after the
operation. At least it was not normal.

Q. Well, would not that be an important factor?—A. That depends
on circumstances. In fairness to me, let me say this—

Q. Just before you start to explain—

His HONOR : Mr. Shand will make a note of that.

Mr. CASSIDY: The temperature at operation gets up to 102, and it does not mean anything?—A. That might be due to the thyroxine. Yes, the temperature may go up just partly from the thyroxine that is escaping.

Q. And that does not mean anything?—A. Not necessarily.

Q. And it does not mean loss of blood?—A. No, that would not tend to indicate loss of blood.

Q. The temperature on the 16th—noon—that is the day her husband was there, was 99.4?—A. I have got that record of it. I have it on
10 the 17th.

Q. 4 a.m.?—A. That is the 17th, isn't it?

Q. Her husband was there on the 16th and saw her?—A. Yes.

Q. At night on the 16th the temperature was 99.4?—A. No; that is the 17th.

Q. Well, 4 o'clock on the 16th—A. No, that is the 17th.

Q. Four o'clock on the 17th, 99.4?—A. Well, I don't know about the time, but in the morning.

Q. And the pulse down to 100?—A. Yes. Well, 72 is the normal.

Q. What does that indicate—that the woman is getting right back
20 to normal, doesn't it?—A. That depends.

Q. That indicates one thing, that the woman is going back to normal?—A. No, not necessarily at all.

Q. The temperature is not high at that stage?—A. No, not at all.

Q. And the pulse rate is not high?—A. Fairly.

Q. Not high?—A. Fairly.

Q. Not very, though, considering the position?—A. Yes, in view of the fact that the pulse before the operation was 88, it is.

Q. But nothing unusual after an operation—the pulse 100 and the temperature 99.4?—A. Well, that depends on what has happened at
30 the operation.

Q. You just said that the pulse before the operation was 98?—A. No. I think I said it was about 88—something like that.

Q. You said 88, didn't you?—A. Yes, to the best of my recollection.

Q. And what you did was that you picked the lowest figure that the pulse was on that day, didn't you?—A. I don't know.

Q. Did you do that deliberately?—A. No.

Q. You know that it was 88, 92 and 96, the last entry?—A. No; I don't remember what they were.

Q. You only took the lowest, did you?—A. Well, it was not by
40 design.

Q. Didn't you tell the jury that it went from 88 to 100?—A. Not necessarily.

Q. It was 96, wasn't it?—A. I cannot remember what the other figures are.

Q. Well, do you remember 88?—A. I don't know.

Q. The last pulse taken that day is 96—not 88?—A. I don't remember now.

Q. You have got the record, haven't you (witness refers to document)?—A. Here I have got 88, 92 and 96 on the 11th. I did not notice it when
50 you asked me the question. I thought it was on another reference.

Q. So if it is 96 and it has gone to 100, it is very, very small, isn't it?—A. Not if it is from 88.

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Q. But the last reading is 96 ?—A. Yes.

Q. The last reading before the operation was 96 ?—A. There is not much there.

Q. But that is the last reading prior to the operation ?—A. That was on the 11th.

Q. But that is the last reading prior to the operation, isn't it ?—
A. I don't know.

Q. But that is the last reading you have got, isn't it ?—A. Yes.

Q. And that is the last reading nearest to the operation ?—A. I don't know. I take it that her pulse was taken every day up to the operation. 10

Q. But the rate that you fixed on is the rate furthest from the operation, and the 96 is the closest ?—A. No ; that was taken on that day.

Q. Well, the last time it was taken was 96, before the operation ?—
A. That was in the evening, and in the morning 88.

Q. So that the reading closest to the operation was 96 ?—A. Yes, but you cannot go by the night reading. The patient's bodily powers are running down then and the pulse might be up more at night.

Q. And the pulse is taken in the morning. They are running down then, aren't they ?—A. I don't know.

Q. You heard that it was 100 in the morning ?—A. Where was that ? 20
It opens night temperature at 4 a.m., but does it say about the pulse ?

Q. Yes, the same line ?—A. Well, presumably it occurred at 4 a.m.

Q. At night, both times, you have very little difference ?—A. No, they were not both taken at night.

Q. Is the pulse going up at its worst in the morning or at night ?
When is the body at its lowest ?—A. At night time. In the morning the patient is at his best and as the day goes on the patient becomes fatigued, and the pulse rate and the temperature go up. That is not an invariable rule, of course.

Q. If the patient had had any considerable hæmorrhage the pulse 30
rate would have been up to nearly 150 ?—A. Not necessarily.

Q. Well, up over 132 ?—A. Not necessarily.

Q. What to ?—A. I don't know. It depends on the amount of blood that was lost.

His HONOR : But assuming that there was a considerable loss of blood, would you expect a great pulse rate increase ?—A. Well, if she had lost a pint or two pints of blood, I would.

Mr. CASSIDY : But didn't you say she was in a desperate condition because of the loss of blood ?—A. I said that I drew the inference from the record that her condition was bad after the operation. 40

Q. I want to go back now to the day of the 16th. You have got pulse rate on the 15th, 98, one reading to 120. By the 16th it has returned to 96, hasn't it ?—A. 95—104.

Q. To 95 ?—A. And 104.

Q. And the next day it comes back to 100 ?—A. Of course, she had had some rectal saline.

Q. The next day it comes back to 100 ?—A. Yes. The 17th, 100. She is getting the fluid in then.

Q. The 17th, temperature back to 99.4 ?—A. No, not back to, going up to 99.4. We haven't got any record of the 16th that I can find. 50

Q. When you look at the hospital record, at 4 a.m. on the 17th, 101.4, pulse 100. Seven o'clock, back to 99.4?—A. As far as I can make it out, there was only one temperature taken on the 17th, and that was 99.4.

His HONOR: The night report of the 16th is actually the 17th. Is that the position?—A. Yes.

Mr. CASSIDY: You may take it that there is another one, 101.8—100?—A. No, that is on the 18th.

Q. 4 a.m. on the 17th?—

10 His HONOR: That would be the morning of the 18th.

Mr. CASSIDY: Well, if you like to call it the 18th—they call it the night of the 17th.

His HONOR: It is actually the 18th.

Mr. CASSIDY: 4 a.m., 101.8, pulse 100?—A. That was on the 18th.

His HONOR: That is the morning of the 18th.

Mr. CASSIDY: That is what you call the 18th—A. It is not what I call the 18th. It is the 18th—4 a.m.

Q. 99.4—100?—A. Yes.

Q. Then 101.8—100, 4 a.m.?—A. Yes.

20 Q. Call it the morning of the 18th?—A. It is not calling it, it is so.

Q. It is. Seven o'clock on the morning of the 18th, 99.4, pulse, 84?—A. I don't know what the time is, but there is a 99.4 on the 18th.

Q. 7 a.m.?—A. I have not got the times.

His HONOR: Have you got a copy of the records?—A. No, I have just got a copy of the chart that I have compiled. (Document handed to witness.) I have tried to condense this on to one page (indicating).

Mr. CASSIDY: Might I take it that you took the 88 as one figure and omitted the 96?—A. Not intentionally.

30 Q. But that is what you did on that document you are looking at. That is in fact what you did?—A. Well, that happened to be here, but I did not notice it at the time.

Q. It was quite undesigned that you took the 88 instead of the 96?—A. Of course it was.

Q. You were not picking out pieces of evidence to fit in with the story?—A. No.

Q. And you did not accept that—A. There is no need for me to do that. (Objected to.)

Q. Hasn't your point that that pulse rate jumped from 88 to 104?—A. No; my point was this, that taking all the factors—

40 His HONOR: I think the jury might be helped if they had all these documents before them now. (Documents handed to jury and also to witness.)

Mr. CASSIDY: You have been through these documents for the purpose of making out a chart of your own, haven't you?—A. Yes, so that I could have it on one sheet.

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Q. Did you select the pulse rates shown on that sheet?—A. No. I put them all down.

Q. But you selected 88?—A. Well, I mentioned that.

Q. You selected it, didn't you?—A. No, I happened to remember it.

Q. Quite by accident you have got 88 down there instead of 96?—

A. Quite. (Objected to.) I have the three down here, but—

Q. But you used the 88?—A. Yes, but when I told you that I did not remember that it was on this sheet. There is nothing sinister about it.

Q. In view of what you know now of the pulse rate, which particular pulse rates do you take as indicating that she lost a lot of blood?—A. I am not taking the pulse rates particularly at all; I am taking all the facts. 10

Q. Do the pulse rates help you one way or the other?—A. Partly.

Q. Which way do they help you?—A. Well, if the patient lost a lot of blood—

His HONOR: That is not an answer to the question.

Mr. CASSIDY: Which way do they help you?—A. Well, how do you mean?

Q. If they help you to form your conclusion, which way do they help you?—A. I think they help me to form the conclusion that she was in a bad condition. 20

Q. Which ones?—A. All of them.

Q. Give me the ones you used?—A. When I formed that opinion I did not just take the pulse rate; I took about six different factors.

Q. Did you take the temperature then?—A. No, because I could not.

Q. So you did not take the pulse rate and you did not take the temperature?—A. The temperature is not recorded.

Q. So you did not take that?—A. I could not.

Q. So a doctor might give saline in every case?—A. Yes, he might, but if the patient has lost a lot of blood— 30

Q. But he might give it if the patient had not lost a lot of blood, wouldn't he?—A. He might.

Q. So that is part of your conclusion—is it?—A. I don't admit that at all.

Q. Give me the next factor?—A. Well, she was semi-conscious. She was restless, the pulse was rapid and I think light, and she had rectal salines, and there was this incident of the hæmorrhage from the superior thyroid artery, and taking all those things together I came to the conclusion, and also in view of the operation, that the patient was in a bad way, and the two or two and a half hours in the theatre. 40

Q. I suppose one of the practical tests of how she was is who sees her—when you see her after the operation, isn't it?—A. Yes.

Q. And wouldn't Dr. Ritchie and Dr. Bell be in a better position to judge of the condition she was in than you?—A. Well, usually the patients—I don't think Dr. Ritchie saw her.

Q. Would Dr. Ritchie be in a better position if he did see her, and you didn't?—A. Other things being equal, he should be.

Q. Well, what things would be unequal?—A. Well, it might be the question of judgment.

Q. In what way?—A. Well, people draw certain conclusions from certain facts. 50

Q. But wouldn't you accept his observation of her when he saw her and you only looked at certain documents (objected to).

Q. Wouldn't you accept his observations of her when he saw her and you only looked at certain documents?—A. Well, I would treat his opinion with respect, certainly (objected to).

Q. Assume for the moment that he did see her. Assume that Dr. Ritchie did see her; he would be in a better position than you looking at records?—A. He should be.

10 Q. " Drs. Bell and Ritchie here a.m. Pleased with patient's condition. Dressings changed " ?—A. They might have been under the circumstances.

Q. What?—A. They might have been under the circumstances.

Q. So you would suggest that that would be something not genuine, would that be it?—A. I am not suggesting anything of the kind. If a patient has been very ill, the doctor may say " In view of everything that has happened I am pleased with her under the circumstances."

Q. That is very ingenious, isn't it?—A. No.

Q. This is a matter for record under the circumstances?—A. What is a matter for record?

20 Q. It is for the guidance of the nurses?—A. No. The nurse put it down at the time. She thought the doctors were pleased.

Q. You accept it as true?—A. I accept that as what she thought.

Q. But you do not accept " doctors pleased with patient's condition " ?—A. Yes. No, that is just the inference she drew.

Q. I suppose she would have some idea—a nurse with experience?—A. Not as much as the doctor.

Q. But between them you would trust what was written, wouldn't you?—A. Yes, I think I would take that.

His HONOR: Gentlemen, you will look at page 4 of the document you have in front of you.

30 A JUROR: There is no page 4.

His HONOR: Well, " day report 16th March."

Mr. CASSIDY: You will see there further down " 3 p.m. pulse rate regular." On the 16th " pulse rate regular, 96 to 104, volume good, taking fluids and nourishment fairly well to-day " ?—A. Well, regularity of the pulse does not refer to rate. It just refers to volume.

Q. Would you say from that that the patient's condition was good?—A. Would you mind reading it again?

40 Q. " Drs. Bell and Ritchie here a.m. Pleased with patient's condition. Dressings changed. Slight serous oozing through tube. Continue with lugols iodine M.10 in milk. Given orally every 4 hours. Last 6 p.m. Has been fairly comfortable during the day. Mist A.P.C. drs. 4 given for headache and sore throat 8.30 a.m. and 3 p.m. Pulse rate regular 96-104. Volume good. Respirations fairly slight. Taking fluids and nourishment fairly well to-day. Aperient p.m. Dr. Bell here p.m. ordered a sedative. Mist. If not effective may have morphia 1/8." Would you agree that the patient's condition within 24 hours of the operation is good, having regard to the operation?—A. No, not necessarily. Taking into account all the circumstances of the case that is the inference that might be drawn.

50 Q. That her condition was good considering that operation?—A. It does not say that that is what they thought.

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Q. But wouldn't you say that 24 hours after an operation for toxic thyroidectomy—wouldn't you say that that patient's condition was good?—A. Not necessarily.

Q. Would you say it was not on that?—A. I would not say one way or the other.

Q. You notice that the temperatures are regularly recorded up to a certain period?—A. Yes.

His HONOR: Up to a certain date, you mean.

Mr. CASSIDY: Yes, up to a certain date?—A. Yes, the 23rd.

Q. Would you assume, therefore, that after that date when there are 10
no special recordings of temperature and pulse—that those things are
normal?—A. No, not necessarily, because—

Q. Well, if the nurses swore that—(objected to).

Q. You heard the nurses swear that after that date they kept the
ordinary chart and there was nothing abnormal to refer to the records
(objected to—question withdrawn).

Q. Assume for the moment that from the charts that were kept you
only transfer to your hospital records when there is anything abnormal,
you would then assume that there was nothing abnormal after those
indications ceased (objected to). 20

Q. I will put it another way. You have come to certain conclusions
about the Plaintiff's condition after that operation?—A. Yes.

Q. And during the period she was in St. Luke's Hospital?—A. Yes.

Q. Did you rely on the hospital notes solely for that?—A. Partly.

Q. Did you rely on anything the nurses said (objected to).

Q. The nurses that were in St. Luke's Hospital during the period
after the operation?—A. No, I did not rely much on that.

Q. Well, did you take any notice of what they said?—A. I would
take some notice of it.

Q. So there are some portions of it, then, that you did take into 30
consideration when coming to a conclusion?—A. I took everything into
consideration—

Q. Some portion of what the nurses said?—A. I may have done so.

Q. Did you?—A. Well, I don't think I bothered very much about
that.

Q. Did you take into consideration anything they said with regard
to the temperature and pulse?—A. Not much.

Q. Did you take any notice of what they said at all?—A. I might
have done.

Q. Well, did you?—A. I could not say. 40

Q. You don't know one way or the other?—A. No, I don't think
I paid much attention to that.

Q. So if there is nothing in the records you have got no opinion
then as to temperature and pulse?—A. That is so.

Q. Have you assumed that the pulse and temperature were abnormal?
—A. When?

Q. After the record stops?—A. I have neither assumed one way or
the other.

Q. So we can cut that out of your consideration altogether?—A. For
what purpose? 50

Q. For any of the opinions you expressed?—A. Well, as I haven't got any particulars in regard to that, I could not draw any inference.

(Luncheon adjournment.)

At 2 p.m.

Mr. CASSIDY: Coming back to the movement of that tube, the opening into which the tube goes is below the Adam's apple?—A. Yes.

Q. To get to a position such as you have indicated, it goes up past the Adam's apple, does it not?—A. No, it crosses the trachea and it gets into the vicinity of the Adam's apple, the far end.

10 Q. Past it?—A. That depends upon the size of the thyroid gland.

Q. It depends upon the size of the tube, does it not?—A. Of course, it depends on the length of the tube.

Q. And if the tube is only two inches, and it is put in from the right of the middle line, does it go much past the Adam's apple?—A. If it were two inches long, no.

Q. And if you have got the thing across your trachea, it becomes very obvious to the patient and very uncomfortable?—A. It might.

Q. But it does, does it not?—A. Not to the patient. It might cause a certain amount of discomfort.

20 Q. Do you not know that that is the very thing the surgeon avoids, putting it across?—A. He cannot avoid it.

Q. So it goes across, according to you, from the right across the trachea, over to the left?—A. Not according to me.

Q. According to your idea of the operation?—A. Yes, and according to the various writers.

Q. Is that where they put it, across the trachea?—A. Yes, in the front of it.

Q. And across it?—A. That is across it.

30 Q. So we have got this then, a very thin area between the trachea and the hollow in your neck, what you call the middle part?—A. There is not much tissue between the skin and the trachea.

Q. And if it is there, the tube of course, can be felt there?—A. The patient may feel it under the dressing.

Q. You made the suggestion yesterday that swallowing would force it up the neck, is that serious?—A. I said that that was one thing that might move the tube.

Q. But if it were moving it up the neck, would not that cause great pain?—A. No, not necessarily.

40 Q. Are you serious that it is just with swallowing you might get the tube if it is left there, travelling across?—A. I did not say down there (indicating). I said up here, in the thyroid capsule.

Q. You see, the tube has got half an inch sticking out?—A. Yes, but this was the distal. It is put into the thyroid cavity.

Q. How can it be put there, if it is only two inches long?—A. It might be three or four inches.

Q. But you have heard it sworn, it is two inches, have you not?—A. I do not necessarily accept that.

50 Q. But if you do accept it as a basis—you see, that is the evidence in the case—if it is two inches it is plain it will not be across the trachea?—A. That leaves an inch and a half underneath the skin down into the

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thyroid cavity, and if it is not sufficiently long to go into the thyroid cavity, then it is too short.

Q. But I suppose the doctor has an idea whether it is too short or too long?—A. He should have.

Q. If you are moving it by swallowing, and it moves up, do you say that that would not be accompanied by great pain?—A. I did not say swallowing was the only factor. I said that that was one factor.

Q. You said gravity was the other one?—A. I said that gravity was another factor that might act.

Q. Do you suggest they might operate in the same direction?— 10
A. I suggest that if there is a solid that can sink and it is in fluid, gravity must operate and it always operates. You cannot get rid of gravity.

Q. But seriously, would swallowing take it up?—A. It might, just as you can lift your arm up like that. It does not follow that gravity is not acting. If there was no gravity, you could lift your arm up more readily. It is a question of the resultant of the two forces, gravity on the one hand and muscular action on the other. You can jump five or six feet on the earth, but if you were on the moon, you could jump over a house.

Q. Do you think those considerations are applicable to this case, 20 with a tube?—A. No, just to show how gravity is acting.

Q. I suppose if you are sitting up in bed like this, and there is pus coming out, it has to run down?—A. It tends to run down.

Q. And the tube tends to come down?—A. If it were forced up there, it might.

Q. And if it were pulled, it would tend to come out?—A. It would tend to, unless it was obstructed.

Q. But if you got your hand and pulled, like that, would that not result in a most dangerous position for a patient?—A. Not necessarily.

Q. If it were held firmly, so firmly that it broke——A. I do not admit 30 that. The head could be held to stop it.

Q. But we have been told that at first there was an attempt made to remove it?—A. If it were fixed inside, that might well be the case, if it were held by a suture.

Q. If it were held by a suture and a man pulled it so hard that it would break, would there not be great damage in that area?—A. How could it? It is a smooth object and how could it do any damage?

Q. If you suggest it has got a suture there——A. I am not suggesting there was a suture in the part where it was pulled out, but where it was left behind. 40

Q. If you were pulling it——A. It could break.

Q. Is that a really serious answer?—A. Yes.

Q. That would mean that the rubber tube would be less strong than the tissues in which the suture was?—A. It would be. It depends upon the condition of the rubber.

Q. Have you ever seen a picture of this operation?—A. Yes.

Q. Have you seen anyone of the leading surgeons in Sydney doing it?—A. I do not remember. I used to go to the three leading hospitals when I first came to Sydney, Prince Alfred and Sydney.

Q. Have you seen any of the leading surgeons doing it?—A. I do 50 not remember. I went to those hospitals and saw a vast number of operations, but I do not know whether thyroidectomy was amongst them. It probably was.

Q. You know, of course, that the drainage of the tube discharges into the pads around the neck?—A. If the drainage is free, yes.

Q. And that those pads, or dressings, are changed from time to time?—A. As required.

Q. Do you remember saying yesterday that the thyroid capsule is ruptured by the surgeon in cutting?—A. It is opened to get at the gland.

Q. But you are not suggesting that that is the rupture through which, if a foreign body were left in, it would come out?—A. That is one way.

10 Q. The natural way, of course, for any foreign body to come out is to follow the line of least resistance? That is well recognised?—A. Speaking generally, the tendency is to follow the path of least resistance, unless there is some obstruction interfering with that tendency.

Q. And if this tube is broken in the wound?—A. Deep in the wound.

Q. How can it be deep?—A. The distal end was deep in the wound.

Q. But the distal end is only two inches?—A. It has got to be long enough to get into the thyroid.

Q. It has been sworn to that the distal end is only two inches from the other end?—A. I do not agree about that. If it is going to do its
20 work, it has got to get into the thyroid cavity.

Q. If it is only two inches long, it cannot go in more than two inches?—A. Yes.

Q. And if it is an inch and a half, it cannot go in more than an inch and a half?—A. That is right.

Q. So the end of it cannot be deep in the thyroid cavity?—A. That depends upon the size of the patient.

Q. And do you know how deep it would be back, where portion of the thyroid is left?—A. Up to the top?

Q. No, to the bottom?—A. It might be two or three inches, or very
30 much more.

Q. In a thyroid, not over enlarged, it might be only two and a half inches?—A. But I thought, according to you, this was a large thyroid.

Q. I said not over enlarged?—A. Well, it might go in three inches.

Q. That is the maximum?—A. I would not say that.

Q. You know your anatomy, do you not?—A. Yes.

Q. Do you know that the two pieces of thyroid that are left are in the base of the cavity?—A. Not at all, I am not admitting this is in the base of the thyroid cavity.

Q. They are lying at the top of the thyroid?—A. They might be
40 left anywhere, but usually they are left posteriorly; that is to say, towards the posterior part of the larynx, the back portion.

Q. At the bottom?—A. No, at the side of the larynx.

Q. Down at the lower end?—A. No, where the isthmus is.

Q. Not up over the top?—A. Yes, top, middle, bottom and the centre.

Q. So it runs up the whole length of the cavity, what is left?—A. That depends on the surgeon, what he takes away.

Q. Are you serious in saying that they leave it right up the cavity?—A. It depends what the surgeon leaves behind. He might leave the whole
50 of the back portion of the lateral lobes, so as not to have to deal with the arteries. He might ligature the arteries.

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Q. Do you know what Dr. Bell did here?—A. I was not present at the operation.

Q. Did you hear in the evidence what he left?—A. I do not think there was much dealing with that aspect of the matter.

Q. Do you remember that seven-eighths of it was taken away?—A. I remember that. That was the anterior portion.

Q. The posterior portion means back at the lower part?—A. No.

Q. Does it not mean the lower part?—A. The middle, lower and upper part of the lateral lobes, the central portion, and the isthmus is taken away. What is taken away is the anterior portion of the lateral lobes and the isthmus. Usually that is what is done. But surgeons might vary according to the circumstances of the case. Circumstances alter cases. 10

Q. You have seen that done, have you?—A. Yes.

Q. Who was the surgeon?—A. I do not remember.

Q. No idea?—A. I do not remember.

Q. Do you know the condition of thyro-toxicosis?—A. I know what is described as thyro-toxicosis.

Q. Have you had any experience of it?—A. Yes, a good deal. It is more usually known as exo-thermy goitre. 20

Q. I will just read you what you said before, and ask you if you agree. It is at page 90 of the third trial.

“Q. You know the condition, I suppose, of acute thyro-toxicosis?—A. Yes.

Q. And I suppose you admit it is an extremely dangerous condition?—A. It may be.”

Q. Is that correct?—A. I think I would be inclined to say sometimes.

Q. Then you were asked :

“Q. And it is a condition which frequently necessitates operative interference?—A. Lots of surgeons do operate. Lots of 30 doctors do adopt surgical methods for it.”

Q. Is that the answer you gave?—A. I think so.

Q. Then you were asked :

“Q. Do you agree in many cases it requires surgical interference?—A. Some doctors think so.

His HONOR: Is not the answer to that yes?—A. Partly. Others believe in the medical treatment.

Q. Mr. Reimer said ‘In many cases’?—A. Yes.

Mr. REIMER: And the condition that this lady had of acute thyro-toxicosis has an extremely deleterious effect on the heart?— 40

A. I do not admit that it was an acute condition that she had.

Q. Will you admit that acute thyro-toxicosis can have an extremely deleterious effect on the heart?—A. Yes.

Q. And to use the expression of your own profession, it causes a very high increase in the consumption of the human energy known as increased metabolism?—A. Yes.

Q. In effect, the whole body is consumed like with fire?—

A. Yes.

Q. The patient suffers from tremors?—A. Yes.

Q. Sleeplessness?—A. Yes.

Q. Palpitation?—A. Yes. 50

Q. Breathlessness ?—A. Yes.

Q. And the greatest difficulty arises from the effect on her nervous system ?—A. Yes."

Is that what you said ?—A. Yes, I said yes, but I would be inclined to say that it may be so.

Q. Do you want to alter that ?—A. Yes, I say it may be so.

Q. Why alter it ?—A. I think perhaps it might be too strong.

Q. But this is the third trial and you have considered the matter well ?—A. Yes, but you have a lot of these things shot at you at a moment's notice and you cannot survey the whole realm of medicine in a moment. Sometimes you might have to consider these things, and you do not get the opportunity of doing it.

Q. The questions I have ready are pretty plain questions, are they not ?—A. No, not at all.

Q. Then you were asked :

" Q. They become highly irritable ?—A. Yes."

A. I should have said they might become highly irritable.

Q. At the second trial you said at page 221A you were asked :

20 " Q. Become listless and irritable ?—A. Very irritable, I would not say listless."

A. I would say some cases, not all cases.

Q. You were asked :

" Q. Do they suffer from insomnia very frequently ?—A. Yes.

Q. Become listless and irritable ?—A. Very irritable, I would not say listless."

A. Severe cases do become very irritable. I do not think that that is an alteration.

30 Q. " They become highly irritable " was the question on the third trial and you said " Yes." To-day you alter that to maybe ?—A. Some cases do become highly irritable.

Q. Suspicious ?—A. They may become so.

Q. Your answer then was " I do not know about suspicious, but irritable."

Q. You were asked : " They are easily upset " and you said " Yes " ?—A. Yes.

Q. " And there have unfortunately been many cases where the mind has been affected," and you answered " Yes " ?—A. Many cases, yes.

Q. " And it frequently ends up in insanity," and you answered " Sometimes " ?—A. Yes.

40 Mr. CASSIDY : " Do you agree that there are many cases which unfortunately have ended up as insane patients," and you answered " Some cases " ?—A. Yes.

Q. " These patients also have at times very heavy throbbing in the head and pains in the head," and you answered " Throbbing in the head " ?—A. That is correct.

Q. Have you ever seen in 1937 in the hospital records about this lady having pains, noises ?—A. No, I do not remember saying that, headaches.

50 Q. " And pains ? " and you answered " It probably causes pain. I think the throbbing would cause pain." That is in the head ?—A. It might be.

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Q. I think you said to me earlier in this case that you had never seen a case of adult tetany?—A. Yes.

Q. And that when you are speaking, you are speaking not from your own experience, but from what you have read? Is that right?—A. No, I am speaking from both.

Q. If you had not seen it, you have read it?—A. I have seen lots of tetany in England.

Q. Did you not tell me you had never seen a case of adult tetany?—A. No, but I have seen it in young people.

Q. And you have never seen a case of post-operative tetany?— 10

A. No, and it is quite a rare thing.

Q. You know, of course, that the spasms in hysteria and the spasms in tetany are in some cases similar?—A. What do you mean by similar—identical or somewhat resembling?

Q. Certain spasms common to both?—A. I want to know what you mean by similar. Similar might mean identical, or it might mean something like.

Q. Can we take it as something like?—A. You get spasms in both diseases. In hysteria they tend to be prolonged, perhaps for weeks, months or years. 20

Q. And of course you do agree that there is the greatest difficulty in a differential diagnosis between hysteria and certain other conditions in which similar manifestations appear?—A. Not the greatest difficulty. There might be difficulty.

Q. Great difficulty, is there not?—A. I do not admit "greatest." There may be some difficulty.

Q. Would you admit great difficulty? You see, I want to put it to you that you have admitted great difficulty?—A. Very rarely. Perhaps there might have been some considerable difficulty.

Q. Very rarely?—A. Yes. It is very rare that a good diagnostician 30 has any difficulty in differentiating tetany from hysteria, and if he had any difficulty he would not be much of a diagnostician.

Q. That is your answer?—A. Yes.

Q. So it must be a very easy thing?—A. I do not say that.

Q. Well, is it difficult?—A. Usually it is, and usually quite simple.

Q. That is your honest considered answer?—A. That is my answer and that is the opinion of good writers.

Q. That is your honest considered opinion?—A. That is my opinion now, yes.

Q. And always has been?—A. I do not say that. 40

Q. When did you change it? Did you have a different opinion?—A. I might have varied my opinion at different times.

Q. Since when?—A. I do not know.

Q. During the course of this case?—A. It might be.

Q. Since the last one?—A. It might possibly be.

Q. Why?—A. I do not know.

Q. Have you read more?—A. I have considered the matter more, and I might have read more.

Q. If you have altered your opinion, what have you read since?—

A. If I have altered my opinion, I do not think it is so much what I have 50 read as what I have considered.

Q. What you have considered?—A. Yes.

Q. Had you ever seen any additional cases since the last time?—
A. No, but it occurred to me after the last time, when this question of
insanity in hysteria came up, well, I did not remember many cases of
hysteria with insanity and I could not recall one, and then I also noticed
when I looked the matter up that the quotation that was made to me
was not made from hysteria but from hysteria epilepsy.

Q. Where did you look that up?—A. In the evidence.

Q. Where was the quotation from?—A. I do not remember.

10 Q. What other books did you look up?—A. A good many of those
books on the table.

Q. Tell me the name of one of them?—A. Osler, Taylor, Allbutt,
Fagge. Those are the chief ones.

Q. And there you found the statement of those writers that it is
easily distinguishable—that is what you said, was it not?—A. Yes.

Q. Is that right, that there you found the statement of these writers
that it is easily distinguishable?—A. Not in those exact words.

Q. Did you not say it would be a poor diagnostician who could not
tell the difference and it would be easy?—A. In most cases.

20 Q. And you suggested you found those words in the text?—A. No,
I found words to that effect, from which I drew that inference.

Q. Have you got a note of the page?—A. I could look it up for you.

Q. I suppose you knew you would be cross-examined about this
matter?—A. I presumed I would be about everything.

Q. You have got your book there, and have you made a note of
these pages—you can look at your book?—A. Yes, but I would like a
little time to look it up.

Q. No, you have a note about that down?—A. Yes.

Q. Give me the page?—A. A note about what?

30 Q. In support of the statement you just made, that it was not difficult
to diagnose between hysteria and tetany. Give me a note of the pages?—
A. I cannot give you the actual pages, but if you give me time to look
them up afterwards, I will give them to you.

Q. When does afterwards mean?—A. After the adjournment at
4 o'clock.

Q. But if you make that statement, have you not made a note of
where to find it?—A. No, it is the general impression I get from reading
the various articles on hysteria.

Q. Did you read them before last trial?—A. I may have done, but
perhaps not so carefully.

40 Q. Is that so, really?—A. Yes. Certain things come up in trials
which you have never considered before, and they put a new complexion
on things and you might read up an article afterwards and modify your
opinion.

His HONOR: The question is, did you, not might?—A. I do not
know if I have modified my opinion or not.

Mr. CASSIDY: Hysteria was raised at the second trial at great
length?—A. Hysteria epilepsy.

Q. At great length?—A. Yes.

Q. And you were cross-examined about it?—A. Yes.

50 Q. And it was raised on the third trial?—A. I think it was raised
at every trial I have been in.

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Q. And you said at the last trial you had made a special study from the text-books?—A. I do not know that I said that.

Q. You said you had made a special study of tetany from the text-books?—A. I do not know that I said I had made a special study.

Q. You may take it I am reading exactly what you said to your own counsel?—A. By that I might have implied that since this matter came up I have probably taken more interest in it than before, if you can call that special study.

Q. Then you go on to your own counsel: "I have been particularly interested since this case has been on, apart from what I knew before"?— 10
A. Yes.

Q. Will you agree that at that trial you admitted there is great difficulty in a differential diagnosis between hysteria and certain other conditions with similar manifestations?—A.—

Mr. SHAND: That is not the question as you read it before.

(Shorthand notes read.)

Mr. CASSIDY: You knew that the differential diagnosis between hysteria and tetany was the subject of enquiry?—A. Well, that is what is alleged.

Q. The two positions were—A. That was your attitude. 20

Q. The two positions were "You get spasms, fingernails and palms of the hands," and you said "Might be tetany, might be hysteria"?—A. I may have said that.

Q. It is right, isn't it?—A. I don't remember what I said.

Q. Is it right?—A. Yes, that is possible.

Q. You said it could be so?—A. Well, yes, if it is possible it could be so.

Q. You remember the question on page 285 referring to Mrs. Hocking's condition, fingernails tightly grasped, the thumb under the palm of the hand, and you said "Yes, that is possible"?—A. Is that in hysteria? 30

Q. In both?—A. That is possible, but in hysteria it would be more likely that the thumb would be outside the fingers.

Q. But it could be either?—A. It is possible.

Q. Your answer was, at page 286 on the last line, "In your opinion is it evidence of tetany," and you said "Possibly"?—A. I do not think I made that answer, I should say "Positive," not "Possibly."

Q. Are you referring to the clenched hands—"would you say the condition, if it happened, was evidence of tetany or not" (objected to).

Q. "As an expert in tetany will you admit that the first manifest form of tetany is the accoucheur's hand, or spasms in the carpo phalangeal joints, hand or feet," and you said "Generally," no, you said "Usually"?—A. Carpo pedal. 40

Q. "Almost universally," and you answered "No, I would not say that"?—A. That is right.

Q. "Would you say that the condition, if it happened, was evidence of tetany or not," you said "It is quite possible in tetany"?—A. I don't understand giving that answer.

Q. That is your answer there?—A. It appears to be the reported answer.

Q. Do you want to alter it?—A. My contention is that carpo pedal 50 spasm is absolutely characteristic of tetany.

Q. You don't say it there?—A. Apparently not, but I do in other places.

Q. "In your opinion is it evidence of tetany," and you said "Possibly"?—A. No, I think that should have been "Positive."

His HONOR: It is quite possible in tetany, you use the same word there?—A. I cannot understand that, because elsewhere I have made it quite clear.

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10 Mr. CASSIDY: Do you want to alter that "Possibly" to "Positively"?—A. There is no need to, because it is over the page again.

Q. Do you want to alter the word "Possibly" to "Positively"?—(no reply).

His HONOR: Do you want to alter it?—A. Yes.

Q. You do?—A. Yes.

Mr. CASSIDY: You want to put the word "Positively" instead of the word "Possibly"?—A. Yes.

Q. "Is it, in your opinion, evidence of hysteria—it might be"?—A. I don't remember ever saying that, not for a moment.

20 Q. Do you suggest that is wrong too?—A. Yes, I must have misunderstood the question, perhaps I was not listening to it. I have always been very definite on that.

Q. You are saying that it is easy to distinguish that manifestation as to whether it is tetany or whether it is hysteria?—A. Yes.

Q. You know that you are opposed by a large volume of medical science on that?—A. No. Will you read the next question—you don't want to do that.

His HONOR: You must not ask questions yourself of Counsel.—A. I am sorry.

30 Mr. CASSIDY: You have heard a considerable amount of other oral evidence, apart from what is written in books, on this question of hysteria and tetany?—A. Yes, in this case.

Q. Evidence from gentlemen who have had experience of tetany and hysteria?—A. Yes.

Q. Evidence of gentlemen who have seen both?—A. I do not admit that your witnesses have seen carpo pedal spasm in hysteria.

Q. Will you admit this much—these gentlemen have seen a spasm in both hysterical tetany and pathological tetany?—A. Yes, probably in other diseases.

40 Q. You will agree that experience is the greatest teacher?—A. And intelligence and education.

Q. These men have education and intelligence and experience?—A. I hope so; I think so.

Q. Would you commit yourself on that?—A. I think so; in fact I have no doubt of it.

Q. "Will you admit this so-called accoucheur's hand, a well-recognised form of spasm, does occur in hysteria." You answered: "I don't, never"?—A. That is correct. I have evidently misunderstood the previous question because I am definite and emphatic there.

Q. Have you an authority for that?—A. Yes.

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New South
Wales.*

*Plaintiff's
Evidence.*

No. 14.
G. S.
Thompson,
8th
December
1943,
Further
Cross-
examina-
tion,
continued.

Q. Where is it?—A. I think I can find it in about three medical text-books, but I cannot tell you the names without looking them up.

Q. Have you a note?—A. I can look them up, but they are probably Allbutt, Taylor, Osler and Fagge.

Q. Could you give me the pages?—A. Carpo pedal spasm, Encyclopedia of Medicine, Vol. 9, page 429, Allbutt's System of Medicine, characteristic position, page 591, Fagge, page 647, "Spasm of fingers and toes distinctive of tetany." There is another reference in Fagge, at page 117, I think.

Q. Could you give me the editions of those books?—A. I think they 10 are on the desk there.

Q. In short, you are going to find those authorities stating that you get those things in tetany, and not hysteria?—A. No, that was not the question.

Q. So you have no authority in that book which is relevant to tetany only and not hysteria?—A. Implied because they say they are characteristic of tetany, pathodemonic is the way we say it. If they are characteristic of one disease they don't appear in another.

Q. That is the way you interpret it?—A. Yes.

Q. Have you seen any other authority than those?—(No reply.) 20

Q. They did not know much about tetany in 1885, when Fagge's book was published?—A. It is as old as the hills.

Q. Has not the research in tetany been very much advanced in recent years?—A. The research has, but the tetany has existed from time immemorial.

Q. The authority is 1886?—A. Yes, a very good book. It is considered a first-class book in its time.

Q. You have found nothing else in your reading on this question?—A. I did not say that.

Q. You found nothing else in your reading on this question to suggest 30 the symptoms are indicative only of tetany?—A. Carpo pedal spasm?

Q. Yes?—A. I believe that there is something in French's book about tetany and hysteria.

Q. It is against what you are saying?—A. No.

Q. Is it in favour?—A. It seems to be a rather vague and short statement. It talks about true tetany, but I don't know what untrue tetany is. I should say of a man who talked about true tetany, I would want to know what untrue tetany was.

Q. That is the full extent of your reading?—A. I don't say that; that is all I can call to mind or that I have been able to look up. I have 40 not access to a medical library at the present time.

Q. Do you get the eye spasm which you have described, in hysteria?—A. You get all the spasms in hysteria; you get eye spasm in hysteria, but I have not described it.

Q. You do not get it in tetany?—A. You may.

Q. May you?—A. Yes, and you do—may and do.

Q. You have authority for that?—A. Yes.

Q. What is it?—A. I have those authorities in different parts of the book; I cannot look them up at a moment's notice. I will see if I can find out for you. 50

Q. Eye spasms in tetany and not hysteria?—A. It says "ocular muscles" and facial spasms; will that cover it?

Q. Well, find that out, please?—A. It will take some time to look that up; I cannot find that now, but I am quite certain I can find it later.

Q. You know the sworn evidence in this case of the Plaintiff is that she had no spasms after the 2nd October 1939?—A. Yes, I think so.

Q. In hysteria spasms can disappear suddenly?—A. They might.

Q. In tetany they don't?—A. Yes, they do at the end of the spasm.

10 Q. But if there are major spasms, they will continue on for some time, gradually getting lesser?—A. Usually they will continue on for some time, but they might end abruptly or gradually.

Q. You spoke of Osler; do you agree with this passage from Osler, at page 285 of the evidence: "They may go on . . ." ?—A. I would like to see the book. There was a case before where it purported to be in hysteria and I found out it was in hystero-epilepsy which was under the article on hysteria.

Q. You yourself used the words that on the 2nd October there were "convulsive spasms" ?—A. Apparently.

Q. That was in this Court yesterday?—A. Yes, apparently she had a convulsive attack then.

20 Q. Take this heading in Osler; will you look at it. It is in the chapter on hysteria, symptoms—convulsive—useful divisions into "convulsive" and "non-convulsive" forms—convulsive hysteria?—A. Yes, not recognised very much by English writers.

Q. He is a great man?—A. He says so himself.

Q. It is a great book and a great authority?—A. Yes, he says that these things are seen in France but not in England or America, and English writers do not tend to recognise them.

Q. That passage is almost a description of what happened to this woman?—A. No. Which passage?

30 Q. The one read to you on the last occasion?—A. I don't remember it.

Q. Didn't it strike you as a close analogy to the present case?—A. No.

Q. You know this book was not written for this case?—A. Yes.

Q. "An attack commonly following emotional disturbance, sets in suddenly, or maybe preceded by symptoms called by the laity hysterical, such as laughing or crying alternately or a sensation of constriction in the neck, or a ball . . ." ?—A. I cannot possibly remember all that; you will perhaps read a dozen lines. I do not admit you can get convulsions in hysteria if you mean—

40 Q. "An attack, commonly following emotional disturbance, sets in suddenly, or maybe preceded by symptoms called by the laity hysterical, such as laughing and crying alternately or a sensation of constriction in the neck or of a ball rising in the throat, a globus hysterious" ?—A. What is the evidence she ever had that?

Q. Isn't the evidence that she felt this—could not breathe?—A. There was in evidence a sensation of constriction in the throat? No, no evidence of a sensation of constriction in the throat.

Q. You have never heard any?—A. No.

50 Q. Never heard her describe her condition in that convulsion, that she felt choking?—A. Yes, but that was not globus-hysterious; that was an abscess bursting—quite different.

Q. An abscess bursting and something shooting out?—A. It did.

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Q. Shot out ?—A. That is the way she described it.

Q. Could it happen ?—A. Yes, it was extruded into the pharynx.

Q. Could it happen ?—A. Yes, it did happen.

Q. How long do you think it would make itself felt before it came out ?—A. For some time.

Q. What does that mean ?—A. Maybe days, maybe weeks.

Q. Would you feel it coming ?—A. You might or you might not.

Q. Why not ?—A. It might be near the surface and the opening might not be sufficiently large to get through.

Q. What would be happening if there was a suppurating condition 10 carrying two inches of rubber round about that part on her throat ?—

A. If it were bent it would be one inch.

Q. How could it be bent ?—A. Two inches of rubber bent in the middle becomes one inch ; rubber is flexible.

Q. You have seen the sketch, haven't you ?—A. I don't think so.

Q. You have done ; I put it to you ?—A. I may have done. I don't remember.

Q. Do you suggest it was bent in the middle ?—A. I don't know.

Q. You know definitely, don't you, that it was not ?—A. When this thing erupted into the pharynx I don't know that this thing was bent ; 20 probably it was.

Q. So we have a piece of rubber twice the original circumference ?—A. No.

Q. If it is bent it must be ?—A. No, it need not be twice the circumference at all.

Q. Well, if it is bent what do you mean ?—A. It might not be much more than the original circumference.

Q. Well, what do you mean ?—A. I will show you what I mean, bent like that (indicating).

Q. Travelling like that ?—A. It might be coiled up. 30

Q. Would it be closed up ?—A. It might be ; there might be pus in it.

Q. Could that be bent with a swab in it ?—A. It might with only a small piece of swab in one end.

Q. Only a small piece ?—A. Yes.

Q. Who said that ?—A. I did.

Q. That is not the evidence, is it, that it was a small piece ?—A. Well, the evidence is not that it was a large piece.

Q. The evidence is that it was in the tube. The evidence is that it was down the cut and to within half an inch of the end ?—A. The evidence 40 is not that it was a large piece.

Q. The evidence is that it was in the tube ?—A. No, the evidence is that something was in the tube that looked like a swab.

Q. Do you suggest that it could be doubled up ?—A. Of course, it could have been.

Q. And travel ?—A. It might have been in any condition.

Q. And travel ?—A. It could travel, yes.

Q. Travel up the neck ?—A. It has not got to travel very far, half or one inch.

Q. A half-inch or one inch ?—A. Yes. 50

Q. I suppose the tail of it, if we may so put it, if it is erupting through the side, the tail of it is hanging a bit behind ?—A. What is the tail ?

Q. I am speaking of the tail as the other end of it?—A. Which is the other end?

Q. The end that does not come out first?—A. Well, which is that? The reason I say that, do you mean the end of it at right angles or the other end, the diamond end, it depends on which it is.

Q. The last end out, whatever it is, is a considerable distance out behind the other?—A. I don't know what the last end was.

Q. If it is coming out of a hole it does not shoot out; you have not sufficient force to shoot it out?—A. It depends on the strength of the muscular spasm at the time. I did not use the word "shoot"; that is what the patient used.

Q. Do you agree that it burst through?—A. I am not going to adopt a patient's description; that is very rough and ready.

Q. If you have not the patient's description you have nothing?—A. I have the patient's rough description that something was there and came into her throat on the 2nd October and nearly choked her.

Q. That, of course, would mean that she had constriction in the throat, wouldn't it?—A. She might have had, but that is not globus hystericus. Globus hystericus is muscular contraction of the œsophagus.

Q. That would be a sense of constriction in the throat?—A. No, not of constriction. There is not the slightest evidence in this case that Mrs. Hocking ever had globus hystericus.

Q. "Symptoms preceding the convulsive movements: There may be painful sensations arising from the pelvic, abdominal or thoracic regions from the description . . ."—A. Just a minute. With regard to convulsive movements I don't admit if by convulsive you imply unconsciousness; I don't admit that you get unconsciousness in hysteria.

Q. What is that?—A. The word "convulsive" might have two meanings to the doctor. It might mean spasm or spasms associated with unconsciousness. I don't admit that in real hysteria you get unconsciousness except as a terminal event when the patient is dying. I don't agree with that as being a true symptom in hysteria.

Q. Have you got any authority for saying that?—A. Yes.

Q. Which one?—A. I will give them to you; I cannot look them up. It is very difficult with cross-references to look them up at a moment's notice.

Q. "They become more noticeable with a choking sensation in the neck"—A. I will agree with the last part.

Q. "From the description these sensations resemble auræ"—A. No, I will agree with the last part. I stopped you when you were reading about convulsive.

Q. "From the description these sensations resemble auræ"—A. Yes.

Q. "They become more intense with the rising sensation of choking in the neck and difficulty in getting breath and the patient falls into a more or less violent convulsion"—A. Well, with a qualification about convulsion, yes, I agree with it.

Q. "The fall is not sudden as in epilepsy but the subject goes down as a rule easily often picking a soft spot like a sofa or a chair and in the movements apparently exercises care to do herself no injury"—A. Yes, which is another way of saying that the patient does not become unconscious.

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Q. "Yet at the same time she appears to be unconscious" ?—
A. Appears to be, yes.

Q. You know that this is the position in this case, that although she says she was unconscious she talks of having swallowed something ?—

A. That is a patient's description ; there is no medical testimony.

Mr. SHAND : There is no evidence that when the swelling occurred she was unconscious.

The WITNESS : Even if she had, she is not a doctor.

Mr. CASSIDY : The husband says she was semi-conscious ?—A. Yes, that is not unconscious. 10

Q. "The movements are clonic and disorderly with the head and arms thrown about in an irregular manner" ?—A. Consistent with—

Q. I am going straight on, I am not touching— ?—A. That is what it has here.

Q. "The movements are clonic and disorderly with the head and arms thrown about in an irregular manner" ?—A. That may occur.

Q. "The paroxysm after a few minutes slowly subsides then the patient becomes emotional and gradually regains consciousness" ?—

A. Yes, with a proviso about the unconsciousness.

Q. In her case you have both periods of unconsciousness and 20 consciousness ?—A. What she calls unconsciousness.

Q. And what her husband calls unconsciousness ?—A. Maybe, yes.

Q. Is he wrong too ?—A. He is not a doctor ; unconsciousness implies insensibility.

Q. "When questioned the patient may confess to having some knowledge of the events which have taken place" ?—A. Yes.

Q. "And as a rule has no accurate recollection" ?—A. That may be.

Q. "During the attack the abdomen may be much distended with flatus and subsequently a large amount of clear urine may be passed" ?—

A. Yes, that is so. 30

Q. "These attacks vary greatly" ?—A. Yes.

Q. "There may be scarcely any movements of the limbs but after a nerve storm the patient sinks into a torpid, semi-unconscious condition, from which she is aroused with difficulty" ?—A. As long as that does not imply unconsciousness I will agree with that.

Q. Then still under the heading "Hysteria" you come to "Major Forms" ; the first division A. is "Minor Forms," then you come to "Major Forms" ?—A. Yes, just read the next word.

Q. Hystero-epilepsy ?—A. What is that ?

Q. Under hysteria, isn't it ?—A. Is that two diseases in one, hysteria 40 and epilepsy, or is that hysteroid epilepsy ?

Q. Can't you understand the learned author ?—A. That is a hybrid I have never come across.

Q. You don't understand it ?—A. What do you mean "understand it" ?

Q. You don't understand it. It is a hybrid, something you don't know ?—A. No, that is what I say. I don't admit that there is such an entity as hystero-epilepsy. I say you can have hysteria and epilepsy.

Q. You may be wrong for once ?—A. I might be.

Q. And this gentleman may be right ?—A. If you read the whole 50 article through you see that he says these things are reported to occur in

France, but we do not see them in England and America, or something to that effect.

Q. Let us get the next thing—"Major forms"; you have dealt with the minor forms?—A. I am not admitting this is hysteria at all.

Q. You are not?—A. No, hystero-epilepsy or hysteroid epilepsy?

His HONOR: If it is not hysteria, is it epilepsy?—A. I don't know what it is. The question is whether hystero-epilepsy is two nouns or whether hystero is an adjective qualifying epilepsy.

Mr. CASSIDY: Listen to what goes on. "Major forms: Hystero-epilepsy—typical instances are very rare in the United States and in England"?—A. There you are.

Q. Did you say that he would agree?—A. No, I said that cases are reported from France, but English writers see very little of them; they are very rare.

Q. "Typical instances are very rare in the United States and in England. The attack is initiated by certain prodromata, chiefly minor hysterical manifestations, either foolish or unseemly behaviour, excitement, sometimes dyspeptic symptoms with tympanites, or frequent mituration." Then we go on: "Painful sensations or a feeling of oppression and a globus rising in the throat may be complained of"?—A. Globus hysterious, yes.

Q. The word "globus" is used?—A. That is what it means.

Q. "Prior to the onset of the convulsion, which, according to French writers, has four distinct stages"?—A. He is distinctly emphasising that.

Q. You have some very celebrated scientists in France, haven't you?—A. Yes, very.

Q. "(1) Epileptoid condition"?—A. If that is not epilepsy I don't know what is.

Q. "Epileptoid condition, which closely simulates a true epileptic attack with tonic spasm (often leading to opisthotonus), grinding of the teeth, congestion of the face, followed by clonic convulsions, gradual relaxation and coma. (2) Succeeding this is the period which Charcot has termed clownism, in which there is an emotional display and a remarkable series of contortions or of cataleptic poses. (3) Then in typical cases there is a stage in which the patient assumes certain attitudes expressive of ecstasy, fear, beatitude or erotism." Now, the fourth, and this is the one I want you to pay attention to—"Finally consciousness returns and the patient enters upon a stage in which she may display varied symptoms, chiefly manifestations of a delirium with extraordinary hallucinations"?—A. In hystero-epilepsy?

Q. That is what is there, isn't it?—A. Yes.

Q. "Visions are seen, voices heard, and conversations held with imaginary persons. In this stage persons will relate imaginary events and make extraordinary and serious charges against individuals"?—A. that is heard of.

Q. And you agree with it?—A. No.

Q. You disagree with it?—A. Yes, as a manifestation of hysteria.

Q. On your experience you disagree with it?—A. As a manifestation of hysteria.

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Q. On your experience of hysteria?—A. Yes.

Q. And you have had none?—A. I did not say that.

Q. Have you had any?—A. Yes.

Q. "This sometimes gives a grave aspect to these seizures for not only does the patient make and believe the statements but when recovery is complete the hallucination sometimes persists. After an attack a patient may remain for days in a state of lethargy or trance"?—A. Yes.

Q. Now, coming back to where we were, to the contractures and spasms on the next page?—A. You notice the word "contracture" and not the word "contraction." There is a difference. 10

Q. Not much, is there?—A. There is all the difference in the world. Contraction is a temporary spasm, a contracture is a prolonged thing that may go on for weeks, months or years.

Q. "The hysterical contractures may attack almost any group of voluntary muscles and be of the hamiplegic, paraplegic, or menoplegic type. They may come on suddenly or slowly, persist for months or years and disappear rapidly"?—A. Yes.

Q. "The contracture is most common in the arm which is flexed at the elbow and wrist while the fingers tightly grasp the thumb in the palm of the hand"?—A. Are you wanting me to say whether I agree with this or not? The contracture most commonly seen in the arm, I would say it is commonly seen in the arm. 20

Q. Which is flexed at the elbow and wrist?—A. In hysteria you are getting the clenched hand.

Q. So you disagree with that?—A. Slightly.

Q. But mainly do you agree with that?—A. No, mainly I don't.

Q. "While the fingers tightly grasp the thumb and the palm of the hand"?—A. No.

Q. More rarely the terminal phalanges are hyper-extended?—A. No, you cannot do that, the terminal phalanges are the distal ones and you cannot hyper-extend them. 30

Q. You cannot agree with it because you cannot understand it?—A. No, I would not say that, I meant that I cannot follow what he means.

Q. You cannot agree with it because you cannot follow what he means?—A. Yes.

Q. "It may occur in one or in both legs, more commonly in one"?—A. Yes, unilateral, that is a feature of hysteria as opposed to tetany, the spasms are more likely to be unilateral than bilateral.

Q. "Other forms of contracture may be in the muscles of the hip, 40 shoulder or neck, more rarely in those of the jaws—hysterical trismus—or in the tongue"?—A. Yes.

Q. "They are apt to occur in middle-aged women about the menopause and are frequently associated with spurious pregnancy, pseudo-cyesis . . ."?—A. That may occur, there I suppose, "apt" is the same as "may."

Q. "and are frequently associated with spurious pregnancy—pseudo-cyesis"?—A. Yes.

Q. Spurious pregnancy meaning where a woman has an idea that she is pregnant and she is not, what is called the idea of phantom pregnancy? 50—A. Yes.

Q. "The only safeguard is in complete anæsthesia when the tumour disappears" ?—A. Yes.

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Q. What is your experience of hysteria ?—A. General experience in practice. It is a fairly frequent condition. I have seen various cases, more particularly of hysterical paralysis, for instance, of the upper arm, and hysterical euphonia and paralysis of the bladder in which large quantities of urine are retained and then when they pass the urine it looks almost clear like water and then these swellings in the abdomen and contractures, that is to say, spasms, over a long period of time in the
10 limbs, and then these attacks brought on by emotional upsets, screeching and yelling out and crying, the patients throwing themselves all over the place repeatedly carrying out certain movements monotonously for a long time, various things like that.

Q. Coming back to this case you have admitted here, have you not, that there are certain features common to tetany and hysteria ?—A. Contractures, yes.

Q. And you have admitted, have you not, that it is ?—A. I did not mean identical.

Q. And it is of great difficulty to diagnose which was which ?—A. No,
20 in rare cases there may be difficulty.

Q. By the way, talking of this word "convulsion" that you used several times, this is your evidence yesterday—"It can also be moved by massage, but most important of all this cavity would be ruptured or completely ruptured by convulsion" ?—A. By the convulsion that occurred at the time.

Q. "That is to say by the spasm that came on on the 2nd October" ?—A. Yes.

Q. So you were speaking of convulsion in the same sense as the text writer ?—A. Not at all. There may have been the spasm of tetany and
30 the unconsciousness brought on by suffocation when she was nearly choked.

Q. You have not been able to, so far, give me an authority for the proposition that tetany patients go unconscious, have you ?—A. But I can.

Q. But you have not given it to me so far ?—A. I don't think so.

Q. Do you know Sloane, that book on the thyroid ?—A. No, I don't know that book.

Q. Have you ever heard of him ?—A. I don't think I have.

Q. Do you recognise it as one of the authoritative books on the
40 subject ?—A. How can I do that when I don't know anything about it.

Q. Have you been trying to get in touch with the best books on the subject ?—A. I have not got access to a medical library.

Q. But you have, haven't you ?—A. No, I have not.

Q. Have a look at this book "The Thyroid" ?—A. It does not say anything about his positions there, what he is, it does not say that he is a surgeon at such and such a hospital or teacher at such and such a hospital.

Q. Would you like to have a look at the preface and find what he is ?—A. I don't know that the preface would help, but usually in the beginning of a book they show "So and so, lecturer on something or other," teacher at
50 some University or other.

Q. "It seems to us that the mental condition of the patient in tetany has not been sufficiently emphasised, neurasthenia and melancholia at

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times become marked and sufficient control of the patient is impossible without sanatorium instalment and some special attendance" ?—A. I agree that if a patient has attacks of tetany over a long period of time they get depressed and upset by it.

His HONOR : What do you mean by a long period of time ?—A. Months, probably a year or two. If they get those spasms frequently they think they are never going to get better and they get upset.

Mr. CASSIDY : You get a passage from what starts off as a parathyroid tetany to a tetany ?—A. Parathyroid tetany is usually of very short duration. 10

Q. But you get where it passes from that to hysteria ?—A. No, not unless the patient is an hysterical patient, once hysterical always hysterical throughout life.

Q. Once neurotic always neurotic ?—A. It is a neurosis ? There is no evidence that Mrs. Hocking was neurotic before 1937 or since.

Q. No evidence at any time ?—A. No evidence whatever that she has suffered with a neurosis. I don't like the term " neurotic."

Q. If in 1941 she is imagining that people are poisoning her ?—A. How do you know that she is imagining it ?

Q. Do you think someone was trying to poison her ?—A. There may 20 have been.

Q. Who ?—A. I don't know, people have been poisoned, how do you know it is imaginary ?

Q. The husband was the only person living in the house ?—A. Husbands have been known to poison their wives.

Q. That she suggested that her husband drugged her to take advantage of her ?—A. Well, what of it, she was having hypnotics at the time, and they may have caused an idea like that.

Q. Is not that the basis of instability in the mind ? (Objected to.)

Q. Assume for one moment that that is said by a woman, isn't it 30 evidence of mental instability ?—A. No, not necessarily, it might be true or it might be an erroneous deduction that she made from certain facts. Women often jump to conclusion, in fact, that is one of their weaknesses.

Q. Of that nature ?—A. Any nature, they often jump to a conclusion and then for them to look for the evidence and it is often unobtainable.

Q. Are you really dealing with this matter seriously ?—A. Certainly I am.

Q. So that if a woman sees a doctor and complains to the doctor that her husband is attempting to poison her, that may have a rational basis ? —A. Certainly. 40

Q. A rational basis ?—A. Certainly.

Q. That is a husband whom she alleges she is happy with ?—A. Where does she allege that.

Q. Haven't you heard her allege it ?—A. No.

Q. Do you think she is not ?—A. I think she has been unhappy.

Q. With him ?—A. Yes.

Q. Why do you say that ?—A. She told me so.

Q. So that you have been having private conversations with her, have you ?—A. Yes.

Q. Where do you have them ?—A. At various places, in my consulting 50 room ; in Counsel's offices—(objected to).

Q. In your consulting rooms?—A. Yes.

Q. When?—A. I think I have seen her since she has been down this time.

Q. And where else?—A. Mr. Shand's chambers.

Q. And where else?—A. I don't know anywhere else.

Q. Where else?—A. Nowhere else.

Q. "The patient remains conscious throughout the attack, and frequently when the attack is at all severe has a fear of impending death"?—A. This is tetany, is it?

10 His HONOR: Which do you say it is, tetany or hysteria?—A. Will you read the sentence again?

Mr. CASSIDY: "The patient remains conscious through the attack and frequently when the attack is at all severe has a fear of impending death"?

His HONOR: What do you say that would be—a symptom of hysteria or tetany?—A. Well, if she had tetany over a long period of time she might think she was going to die, getting these symptoms day after day.

Q. How would you diagnose a patient of whom you knew these facts.

20 Would you think that she was suffering from tetany or hysteria?—(Objected to)?—A. It might be a lot of diseases.

Q. Including hysteria, including tetany and others?—A. Yes, in a long case of hysteria and where a patient was dying from starvation.

Mr. CASSIDY: "This feeling naturally brings about a neurasthenic condition, which makes treatment very difficult"?—A. Well, that is rather a vague term, neurasthenia. They get nervous, upset and depressed. You can call that neurasthenia if you like.

30 Q. "The patient remains conscious through the attack"—the spasm?—A. It might only be a mild form of tetany. In mild cases of tetany that is so, but in bad cases of tetany they do become unconscious.

Q. So they do become unconscious in tetany?—A. In bad cases, yes.

Q. And isn't that followed by death?—A. No.

Q. Is that contrary to your reading?—A. No. It is contrary to my reading, although it may occur before a patient does.

Q. "We attribute two of the deaths in our series to the fact that the patient could not be subjected to the proper control." You know Reinhoff, do you not?—A. No, I don't.

Q. You have heard of him?—A. No.

40 Q. Has this book been quoted to you before (indicating)?—A. No.

Q. You have no recollection of it whatsoever?—A. No.

Q. Do you know that he is a very distinguished man. Just look quickly, will you (book handed to witness). It will save me reading it?—A. Yes, I would say that anyone in John Hopkins University.

Q. They are pretty hot, aren't they?—A. I would not say "hot."

Q. And "John Hopkins" is the home of research isn't it?—A. I did not know that.

Q. Do you agree with this, "by tetany is meant a chemical syndrome resulting from a functional insufficiency of the parathyroid gland"?

50 —A. Not functional—organic.

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tion,
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Q. I am reading what this author says—not what Dr. G. S. Thompson says?—A. You asked me if I agreed with it.

Q. You disagreed with the word “functional” and you substitute the word “organic”?—A. Yes.

Q. “Which is characterised by heightened excitability of the central and autonomic nervous system”?—A. No, I don't agree with that. It is the peripheral—I don't agree with “central.”

Q. You would cut out “central” and substitute——?—A. Peripheral nervous system.

Q. “An autonomic nervous system”?—A. No, I don't agree with 10 that entirely. Tetany is essentially a disease of the peripheral nerves—sensory and motor—in which the nerves become hyper-irritable.

Q. I suppose you will admit that you have had nothing like the experience that the gentleman who is talking here has?—A. Well, I don't know what experience he has had. He is a surgeon, not a physician.

Q. Are you a physician?—A. Yes. Both.

Q. And an “eye” man—an ophthalmic surgeon?—A. No.

Q. A specialist in mental diseases also?—A. No, I do not claim to be a specialist in mental diseases.

Q. But you have haven't you?—A. Never. 20

Q. Never?—A. No, never.

Q. Twilight sleep?—A. I don't know what you mean by a specialist?

Q. Don't you?—A. Not exactly. Do you mean that I have had a lot of experience?

Q. “By tetany is meant a clinical syndrome resulting from a functional insufficiency of the parathyroid gland, which is characterised by a heightened excitability of the central and autonomic nervous system, manifested by clonic and tonic spasm, without an accompanying loss of consciousness.” Do you say that is wrong?—A. No, I don't say that is wrong. 30

Q. Do you say it is right?—A. No, I don't say it is right.

Q. Well, which is it?—A. Both. In most cases of tetany you don't have unconsciousness, but in severe cases you may, so it is both right and wrong.

Q. But he uses the words “without loss of consciousness.” He says you don't go unconscious?—A. Well, I can bring you an equal number or more in which it says you get unconsciousness. For instance, Dr. Ronald Hunter, who is a very able man——

Q. What is his book?—A. “Encyclopaedia of Medicine.” That is only one. I can give you others. 40

Q. Just now?—A. No. I am afraid I could not. It is very difficult looking these things up.

Q. Now I just want to get one remark you made to the presiding Judge on the last occasion. This is to His Honor, line 24, p. 279. This is what you said, is it not. This is an additional passage to the one I read:—“It is difficult to say whether different types of disease may be indicated by those symptoms, or whether they do not exist organically. In an organic disease you have contractures and you may have contractures in hysteria”?—A. Yes, that is correct.

Q. “Then the answer is yes, you can have symptoms, although there 50 is no organic basis for them”?—A. That is so.

Q. And your answer was "Yes" ?—A. Yes. So-called functional diseases.

His HONOR : Your answer to that was——?—A. Yes, that is the answer, yes. I will qualify that by saying so-called functional diseases (objected to).

Mr. CASSIDY : You know that a good deal has been said about infection in connection with any foreign bodies ?—A. Yes.

Q. And you have been cross-examined at some length with regard to it ?—A. Yes.

10 Q. And you have understood that cross-examination have you not ?
—A. Yes.

Q. And you have appreciated the questions that have been put to you by the Counsel putting them ?—A. I think so.

Q. And you agree, do you not, that the matter is well set out—the matter of infection is well set out in "Diseases of the Thyroid Gland," by Joll ?—A. I don't know Joll.

Q. That man has written a book of very high authority, is it not ?
—A. I don't know.

20 Q. Well, have a look at it. It is devoted to the diseases of the thyroid (handed to witness) ?—A. It looks like it.

Q. It is "Diseases of the Thyroid Gland with Special Reference to Thyrotoxicosis" ?—A. Yes.

Q. And it is a very detailed consideration of the subject. It is a very big book with very detailed consideration of the subject ?—A. Yes.

Q. Have a look at the book ?—A. Well, you say "detailed." I haven't had time to have a look at it. It is a big book, so I suppose it is detailed.

Q. It is detailed on the thyroid ?—A. Well, it purports to be.

30 Q. I want to read p. 591. It is under the heading "wound infections" following thyroidectomy :—

"Serious infection of these wounds is fortunately almost unknown. T. Kocher had none in 1,293 cases."

—A. I agree with that.

Q. "In my own experience of over 2,000 cases, I have not had to deal with a single instance. It is quite otherwise however with the localised forms of suppuration which tend to occur——" ?—A. Is that superficial infections ?

Q. "Especially in the centre of the wound, or at or near the site of the drainage tube" ?—A. That is a superficial one. This was a deep one.

40 Q. Listen to the passage and tell me whether you agree with it. (Objected to.)

Q. Do you agree with that passage ?—A. I have answered that.

Q. What is your answer ?—A. Superficial infections.

Q. Do you agree or don't you agree with that statement ?—A. He does not make it quite clear, but he obviously refers to superficial infections.

Q. "It is quite otherwise however with the localised forms of suppuration which tend to occur, especially in the centre of the wound, at or near the site of the drainage tube" ?—A. Well, I take it that he means superficial infections just near the skin.

50 Q. "This form of infection may be due to the introduction of organisms through the tube itself, but it appears to me that this is much less likely

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to be the source of the trouble than the ligature and suture material employed." Do you agree with that?—A. No, I entirely disagree with that, because—

Q. "If fine silk or thread is used through thyroid operations post-operative suppuration in the wound is exceedingly rare." Do you agree with that?—A. Not altogether.

Q. "Unfortunately, when it does occur, many of the unabsorbable ligatures become infected, and are extruded gradually through the wound, often at intervals of weeks or months, or even longer" ?—A. I partly agree with that. 10

Q. And you know that in this case portions were extruded through the wound up to two or three months?—A. Some portions were.

Q. They were knots, were they not, as you see from the record?—A. That is what we are told.

Q. And they came along the line of least resistance, through the sinus?—A. I do not agree with that. The evidence is that they would come through the superficial part, but that does not mean that they would come through the deep part of the wound.

Q. They came out some time after?—A. Yes.

Q. And won't you agree that they came out from the line of least resistance?—A. What was the line of least resistance? 20

Q. The sinus?—A. I don't agree with that.

Q. You have followed the evidence?—A. Yes.

Q. "The process is associated with the formation of one or more sinuses, or of recurrent abscesses, which have to be opened up to permit the ligatures to be cast off. For this reason unabsorbable sutures should not be used exclusively in thyroid operations. They can, however, be employed usefully for the deeper parts of the wound—that is to say, in connection with the gland tissue itself" ?—A. That is a long sentence. Do you want me to agree or not with all that. You have got absorbable sutures and unabsorbable sutures— 30

Q. Is there anything that offends you or not, seriously?—A. Well, if the sutures are absorbable with difficulty, it will take a long time; absorbable sutures would take a short time.

Q. "Absorbable catgut sutures are to be preferred for the more superficial parts of the wound" ?—A. I agree with that.

Q. "Even though I am convinced that in many cases they have a local irritative action and in certain individual cases lead to the development of small quantities of serous or sero-purulent exudate" ?—A. Slight local irritative action. 40

Q. The next part is—"In the majority of these cases the fluid is found to be sterile, and it must therefore be considered to be due to the action of irritating substances released by the absorption of the catgut" ?—A. I don't admit that they—

His HONOR : Do you agree with that proposition?—A. No.

Mr. CASSIDY : "In the majority of these cases the fluid is found to be sterile, and it must therefore be considered to be due to the action of irritating substances released by the absorption of the catgut. In other cases, however, organisms are found" ?—A. No, I don't agree with that.

Q. "They are usually pyogenic staphylococci, but occasionally streptococci and even bacillus coli have been found" ?—A. Usually staphylococci. I don't agree with that. Streptococci—rare. Bacillus coli—rare. 50

Q. "The wound should therefore be washed carefully especially from the fourth to the tenth day after operation, and if any bulging is observed in the centre a probe or an aspirating needle should be inserted and the fluid withdrawn" ?—A. No, I don't agree with that. In these operations they should nearly all heal up with perfectly good union and have no trouble at all.

Q. But you cannot have these operations with no trouble at all ?—

A. I thought you were dealing with thyroidectomys generally.

10 No. Q. You cannot order it that you don't get any trouble at all ?—A.

Q. Infection can come from everywhere ?—A. Yes, but it does not.

Q. But it occurs sometimes and beats the surgeon ?—A. From the skin.

Q. And from other places ?—A. As regards practical politics, no.

Q. I suppose you would disagree with the views of other surgeons that it can come from other sources ?—A. What sources ?

Q. From the air ?—A. No, I don't agree with that. That idea has been given up since Lord Lister used to spray the theatres with carbolic.

20 patient's skin. Q. A person putting a hand about the wound ?—A. That is the

Q. They wear masks I suppose you know, in operations ?—A. Some surgeons do.

Q. But they do it in operations ?—A. I don't.

Q. You don't ?—A. No.

Q. But you don't do many ?—A. I do.

Q. Really ?—A. When I operate I don't wear a mask—

Q. Do you ?—A. I don't mean many. Not as many as I used to.

Q. How many in the last two years ?—A. I could not tell you. As a matter of fact—

30 Q. Let me finish it. You realise that these knots are extruded from the wound often for a long period ?—A. They may be.

Q. And you can get them extruded up to 18 months ?—A. Yes ; silk chromic catgut—

Q. "In a consecutive series of 2,000 thyroidectomys carried out by me, 91 per cent. were healed within 10 days, a further 8·2 per cent. healed within 21 days, and in ·8 per cent. a sinus persisted for periods up to two years" ?—A. Yes ; ·8 per cent.

Q. But it can happen, can't it ?—A. Yes, of course.

40 A. It can be moved in the cavity. Q. For that object to move, it can only move with suppuration ?—

Q. It must be surrounded by suppuration ?—A. No.

Q. It must be surrounded by pus ?—A. No.

Q. It can move without it, can it ?—A. In fluid.

Q. Movement will mean destruction of the tissue along the path it moves ?—A. If the abscess expands, it does not imply a destruction of tissue.

Q. When it moves it destroys tissue, and does it not leave, in place of the part that it destroys, fibrous tissue ?—A. And it may not.

Q. But may it not do so ?—A. Yes.

50 Q. And the muscles of the neck ?—A. It might.

Q. It might ? Can pass through the muscles of the neck, and the fibrous tissue that it leaves be still as elastic as the muscle ?—A. It may leave very little fibrous tissue. It did so here.

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Q. But inside?—A. It may be much worse inside than appears on the surface.

Q. She has got a perfect neck?—A. No.

Q. Much limitation?—A. Yes; she moves her neck with difficulty.

Q. Did you ask her that?—A. Yes.

Q. When?—A. When she was not at Court.

Q. Why?—A. Because I wanted to hear the facts.

Q. When did you ask her?—A. Just recently.

Q. When?—A. A few days ago.

Q. Since this case has started?—A. Yes.

Q. So that, if she has got it yet she must have had it pretty badly on the 7th October?—A. I think on the 7th October she had limitation of movement.

Q. But if this tube had come up the throat—travelled up the throat —?—A. There is not much travelling involved.

Q. What?—A. That is what you say, but it is not a fact.

Q. Not much travelling involved?—A. No; it is quite near the pharynx.

Q. And very little to go through?—A. Only the thin wall of the pharynx—as thin as cardboard. In that place it is just the thickness of 20 cardboard.

Q. But here (indicating)?—A. I am not talking about there. I am talking about here (indicating).

Q. But what about the end that was left in?—A. That is the part I am talking about.

Q. But the part that was left in?—A. That was not near the skin at all. That was right deep underneath the muscles that I have told you.

Q. And how far away from the surface—an inch or two in?—A. It might have been 2 or 3 inches.

His HONOR: Two inches or 3 inches from the outside skin?—A. 30
From the opening in the skin.

Mr. CASSIDY: Three inches?—A. I said it might be two or it might be three.

Q. Two or three?—A. Yes. Then it hadn't got to go very far to get—

Q. So the tube broke 2 inches in from the surface at least?—A. It may be two or more.

Q. It may be two or more?—A. Yes.

Q. So the pulling on that tube broke it at that place—2 inches in.

His HONOR: Two inches to 3 inches.

Mr. CASSIDY: Two inches to 3 inches?—A. I am not going to say the exact distance in that that tube was broken.

Q. But you swore it just now (objected to).

Q. Didn't you say 2 to 3 inches in, because it only had a small distance to travel?—A. I don't think I was as exact as that. I said it was something like that.

Q. You said it only had a small distance to travel?—A. No, I suggested that the broken piece of tube, if it was in the thyroid capsule at one time, only had a small distance to get to the outside of the pharynx.

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Q. And didn't you say for that purpose that it was deep in a cavity ?
—A. It was deep in the neck, of course.

Q. And didn't you give 2 to 3 inches as the distance it was in ?—A. About that.

Q. About that ?—A. Yes, I would not absolutely—

Q. The strain that came on that tube then came at some position either 2 to 3 inches, you suggest ?—A. Deep in the neck.

Q. Deep in the neck ?—A. Yes.

10 Q. If a tube had been pulled as is suggested, that would have been fatal for the Plaintiff wouldn't it, in the condition she was ?—A. Why ? Rubbish—that is absolute rubbish.

Q. It was on the 17th—we have got it ?—A. Yes.

Q. And in two days a doctor pulls in that fashion ?—A. What fashion ?

Q. What the witness suggests ?—A. That is what she says. I am not going to accept what the patient says.

Q. Aren't you going to accept that ?—A. I am not going to accept what the patient says.

Q. You are going to discard it ?—A. I am not going to discard it.

20 Q. Well, you won't accept it ?—A. As to accuracy, I am not going to accept the patient, an untrained observer. The fact is one thing and the details are another.

Q. You say that you won't accept the Plaintiff's story as she tells it ?
—A. I didn't say that.

Q. Well, will you accept that the doctor pulled twice and it did not come out, and then he put his hand on her head and pulled. Do you accept that ?—A. I won't say that.

Q. Will you accept that ?—A. She was in a bad state of mind.

Q. Well, couldn't she have imagined it ?—A. She did not imagine it.

Q. Wasn't she delirious ?—A. She was not delirious.

30 Q. Two days after the operation she was—you said she was in a bad state of mind. Will you not agree that her story is fantastic ?—A. It is not fantastic at all. On the contrary, I could not imagine anybody except a genius inventing an ingenious story like that. I would like to see a doctor do it. That is one of the strongest pieces of evidence in this case.

Q. Have you had any experience of inventing stories ?—A. No, I haven't, I leave that to your side.

His HONOR : Do you say that intentionally ?—A. No.

Q. You realise that that is a very insulting thing to say, do you not ?
—A. Well, they are suggesting that Mrs. Hocking is inventing this story.

40 His HONOR : The witness is here not to insult the parties. (Objected to by Mr. Shand.)

The WITNESS : If the way I have answered it is considered offensive I will withdraw it.

Mr. CASSIDY : You considered that she was in a bad state of mind after the operation ?—A. She was ill after the operation, yes.

Q. And in that state a person is prone to imagine things ?—A. No, I don't admit that under those conditions.

Q. And in that thyrotoxic condition, that is one of the things that is conducive to that state of mind ?—A. On the contrary ; as the offending
50 organ had been removed she should have been improved.

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Q. By the 17th—in two days?—A. Slightly.

Q. Are you serious?—A. Yes.

(At this stage further hearing was adjourned till Thursday,
9th December 1943, at 10 a.m.)

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Eighth day—Thursday, 9th December 1943.

DR. THOMPSON.

Cross-examination continued.

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tion,
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Mr. CASSIDY : You heard the words "marine sponge," used on one occasion by the Plaintiff, did you not?—A. Yes.

Q. What do you understand by that?—A. Just the ordinary sponge 10 that you use for bathing.

Q. You know, of course, that that is not the kind that is used for a swab in a thyroidectomy operation?—A. It is not used for swabs these days—it used to be.

Q. Yes, but——?—A. I said not these days.

Q. That means 1938?—A. Yes.

Q. Stitches do become involved in infected surgical wounds, do they not?—A. Yes.

Q. And knots coming away indicate that the stitches have become involved in infection?—A. Yes. 20

Q. Because what happens is that, although you may get your stitch involved, the knot itself gets the infection inside it, does it not?—A. Well, the knot is the part of the stitch that is not dissolved and the germs get into it.

Q. And that stops the knot from dissolving?—A. No.

Q. Well, that is the reason why the knot, as distinguished from the stitch, does not dissolve?—A. No.

Q. The result of the germs getting into the knot is that the knot does not dissolve. That is correct, isn't it?—A. No.

Q. I think you are right. I should have added the words "does not 30 dissolve as quickly"?—A. Well, there is more catgut there, and other things being equal the knot would not dissolve as quickly as the rest of the ligature.

Q. That being the reason, for some time after you will get knots extruded out of the sinus?—A. Well, that depends on what "some time after" means.

Q. Well, we will take it with exactitude. When knots do come out it means they have been involved in infection?—A. Yes, usually.

Q. You know in this case——?—A. I think you may say that that is always the case because every wound is infected whether it becomes 40 inflamed or not.

Q. In this case you know from the history that knots continued to come out even up to the time she was in Quirindi Hospital?—A. That is correct.

Q. I suppose you will realise that there would be a good number of knots?—A. There might be.

Q. And you have read in the books, have you not, that on occasions you will get knots coming out as long as 18 months or two years afterwards?—A. Chromic catgut and silk——

Q. That is the only kind ?—A. Never raw catgut.

Q. Never raw catgut ?—A. No, certainly not.

Q. Do you know the catgut Dr. Bell uses ?—A. It is just raw catgut—the London Hospital raw catgut.

Mr. SHAND : That is what he said ?—A. That is what he said.

Mr. CASSIDY : Is that what he said ?—A. Yes.

Q. “London Hospital raw catgut” ?—A. I don’t know whether he mentioned the word “raw.” I know he said “London Hospital catgut.”

10 Q. You know he did not mention the word “raw” ?—A. I don’t know. I thought that he had mentioned it, and, as far as my recollection goes, that is as far as he did say.

Q. “London Hospital catgut,” was it ?—A. I don’t know, I don’t remember, rather.

Q. The next thing is that stitches tend to keep the suppuration active, do they not ?—A. Yes—keep it up.

Q. I want to pass now just for a short time to some of the evidence that you gave before because that is the quickest way of getting it. First of all, the sinus will not heal up until all such knots are extruded ? That is correct, is it not ?—A. It tends not to.

20 Q. What ?—A. It tends not to.

Q. The next matter is that suppuration invariably involves some destruction of tissue ?—A. Not invariably—often.

Q. You qualify the word “invariably” ?—A. I think I did before.

Q. Did you ?—A. I mentioned about the breast, I think—abscesses of the breast.

Q. We will take abscesses with foreign bodies ?—A. Abscesses of the breast.

Q. No, take for the purposes of my question, abscesses with a foreign body ?—A. It does not make any difference.

30 Q. The question last time was—“Suppuration invariably does involve the destruction of tissue,” and you said “Some destruction,” and you want to qualify it now ?—A. If I did not qualify it then I want to qualify it later.

Q. How do you want to qualify it now ?—A. I want to qualify “invariably.”

Q. Well, what do you want to put—often ?—A. Sometimes.

Q. And so long as the suppuration continues the tissues will be destroyed and expelled, will it not ?—A. It tends to.

40 Q. Is this correct, that any ulceration involves necrosis of the tissue ?—A. Yes.

Q. And necrosis means destruction of living tissue ?—A. Well, ulceration refers to the surface of a skin or membrane.

Q. That refers to the destruction of living tissue, doesn’t it ?—A. Yes.

Q. For a foreign body to move, that presupposes enlargement of the cavity ?—A. That depends on how large the body is and how large the cavity is.

Q. Take a body of this size ?—A. Well, the cavity would have to be larger than that.

50 Q. And that implies, does it not, that as it is moving, there will be suppuration and destruction of tissue ?—A. Not necessarily ; it may be quiescent.

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Q. If it is moving?—A. It does not matter if it is moving. A body can move whether it is active or quiescent. You can have serum.

Q. And will it move up the neck with serum?—A. It might if it was in a cavity containing serum.

Q. Is there a cavity containing serum for it to move in?—A. There might be.

Q. But is there?—A. There could be.

Q. What is it?—A. Well, you could have a serous exudation as, perhaps, in this case.

Q. Where from?—A. From the blood—the exudation of serum from 10 the blood into a space.

Q. What space?—A. A space formed by inflammation of a tumour or a cyst.

Q. Inflammation formed by a tumour or a cyst?—A. Yes. I said that fluid could be formed by either of those things.

Q. That would presuppose a tumour or a cyst?—A. No; I said generally.

Q. Have you got anything like a tumour or a cyst here?—A. You were asking in general terms. You said: "Is it possible for a foreign body to move except in pus?" I think that was your question. A body can 20 move in any fluid.

Q. What has a tumour or cyst got to do with it?—A. With what?

Q. With this body moving. What has a tumour or a cyst got to do with this body moving?—A. I don't know about this body. It might have something to do with it or it might not. It depends on the circumstances.

Q. What circumstances?—A. That happen to be present at the particular time. I am not admitting that there was pus—

Q. A tumour or cyst has to be removed, hasn't it?—A. It should be removed. Lots of people have tumours or cysts that are not removed. 30

Q. They would still be there then, wouldn't they?—A. No, sometimes they resolve.

Q. They resolve?—A. Yes. When you were asking me yesterday about gravity, there was one thing I forgot to say. If a patient were lying on the right side gravity would act from the left to the right.

Q. If a patient were lying on the right side gravity would act from the left to the right?—A. Yes, always downwards to the centre of the earth.

Q. So that the tube would tend to come out (indicating), not to go up to the left?—A. I said that the tendency would be that as gravity is directed to the centre of the earth—from the top to the lower part, and if a 40 patient is lying on the right side the right is the lower part and the left is the upper part.

Q. Did you suggest to this patient that she was lying on the right side?—A. I don't suggest things to patients.

Q. But did you?—A. I did not.

Q. Don't you know that up to this time she did not swear that she was lying on the right side?—A. I don't remember whether she swore it or not.

Q. I ask you again, did you suggest it to her?—A. Certainly not; why should I? 50

Q. Is gravity having an effect on the tube there (indicating)?—A. Gravity has an effect at all times and under all circumstances.

Q. And I suppose that that would equally apply to pus running down from the top to the bottom?—A. It applies to anything.

Q. And that would mean that if you want to get it out you would want your tube at the bottom?—A. Yes. If a patient is lying in bed that is not the bottom.

Q. But if a patient is lying in bed like that (indicating)?—A. Yes, but if they are lying flat, that is not the bottom.

Q. But do you suggest that they lie flat?—A. Well, I take it that for the greater part of the time that Mrs. Hocking was lying in bed she was lying flat.

Q. After the operation?—A. I am not talking about after the operation—I am talking about the quiescent period. The operation has nothing whatever to do with this particular question you are asking me now.

Q. Nothing to do with it?—A. No.

Q. Are you suggesting that this woman was lying in bed for 18 months in such a way that gravity is going to have an effect?—A. I said that gravity always had an effect, and it had an effect in this case throughout.

Q. So that gravity had the effect of it going up the neck?—A. I did not say that.

Q. Well, that is where it went?—A. No, not very far up the neck. It did not have to go very far up.

Q. But according to you, it had to go up?—A. Slightly.

Q. And then it had to turn at right angles to get over to the tonsil?—A. No. There was no turning corners—the cavity was ruptured.

Q. Do you suggest that that tube went up like that and out of the tonsil?—A. I did not say that.

Q. It could not, could it?—A. It could.

Q. You say it could?—A. Yes.

Q. It could go up like that (indicating)?—A. It could go up; it could go down and it could go laterally—it could go in any direction.

Q. Could it go up like that and then like that (indicating)?—A. I did not say that.

Q. It could not?—A. I did not say anything of the kind. It could go up and then laterally.

Q. Isn't that what I am putting to you, that it has got to go laterally?—A. No, that is part of the direction. Part of the direction may be going up; part going laterally.

Q. When you say laterally you mean horizontally, do you?—A. No; from side to side.

Q. At what stage is that going to happen?—A. I could not tell you. I did not see the tube at the time.

Q. Do you realise what it has got to go through once it goes up and once it goes to the right?—A. Yes; very little.

Q. You have heard a volume of evidence on that matter of the impossibility of the travel, haven't you?—A. Yes, it is rubbish.

Q. Who do you say talked rubbish on that aspect?—A. Well, I say that no experienced doctor—

Q. Who do you say talked rubbish?—A. Well, most of the doctors.

Q. I want to get the names?—A. I cannot remember the names. I cannot remember them all. There was Dr. Bell, Dr. Poate, Dr. Ritchie, Dr. O'Hanlon, Dr. Marsh, Dr. Steele.

Q. Anybody else?—A. That is all I can remember.

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Q. And who talked sense?—A. I will except from my remarks Dr. Edwards, and I think Dr. Tebbutt, and, mostly, Dr. Inglis.

Q. That is Professor Inglis?—A. I think Dr. Edwards is quite an impartial witness—an excellent witness.

Q. The only one?—A. I did not say that.

Q. An excellent witness?—A. I think Dr. Tebbutt was a very good witness.

Q. You are a very good judge, are you?—A. I did not say that.

Q. But the others all talked rubbish?—A. Yes, a tremendous lot of rubbish. In fact the only consistency I could find was in the 10 inconsistency.

Q. And, of course, that would be conscious rubbish, would it?—A. I don't know.

Q. Or deliberate rubbish?—A. I don't know.

Q. Or lack of knowledge?—A. Well, I should not think it would be lack of knowledge. It should not be.

Q. Whether a thing is rubbish or not may depend on the knowledge of the individual?—A. No; it is a question of fact—proof. It is not a question of opinion; it is a question of proof.

Q. Whether statements as to anatomy or other things are rubbish or 20 not depends on the state or knowledge of the individuals who hold the conflicting views?—A. No. I will give you one instance—

Q. Answer that question; whether a matter is rubbish or not depends on the knowledge of the people contending for different points of view?—A. No, it does not. It depends on the facts.

Q. If rubbish, then it must have been conscious rubbish. Is that what you say?—A. I do not say that.

Q. The only other alternative would be that it must have been ignorance, wouldn't it?—A. It might have been.

Q. These men all know their jobs. I suppose you will agree about 30 that?—A. Well, if a person could not see an obvious—

Q. These men all know their jobs?—A. Well, I could not say that. If a person could not see a punched out canal in a tonsil when it was directed to their attention, I would not think much of their opinion.

Q. Do you remember my asking you about the case when you sued the boatbuilder?—A. Yes.

Q. And when you had your boat housed there?—A. Yes.

Q. And when you brought a case against him for his negligence?—A. Quite correctly.

Q. What?—A. I brought it quite correctly. 40

Q. You say you brought it quite correctly?—A. Certainly.

Q. And the negligence alleged against him was that you had been about that place for years and you bumped your eye on one of the boat spikes?—A. I had not been there for years. I had been there for some time.

Q. You had been about boatsheds for 10 years?—A. You said his boatshed. (Objected to.)

Q. Well, round about boatsheds in Rose Bay?—A. Well, what has that got to do with it?

Q. Well, round about boatsheds for 10 years?—A. Well, I have had 50 a boat for 10 years, but I haven't had an accident with a boat for 10 years.

Q. If you said that he promised to compensate you and that he was to blame, that would be true, wouldn't it?—A. No. That is quite untrue.

Q. That you said he promised to compensate you and that he said he was to blame?—A. No, that is an absolute misrepresentation.

His HONOR : That is a double-barrelled question.

Mr. CASSIDY : Doctor?—A. Well, you prove it.

Q. If you swore that?—A. I didn't.

Q. If you swore it was it untrue?—A. I didn't swear it.

10 Q. Nothing like it?—A. No. I never swore that he promised to compensate me.

Q. That he said that he was to blame and promised to compensate you?—A. No. As a matter of fact, that was the whole point. He refused to do it.

Q. Did you use that to try and suggest that he had admitted he was in the wrong?—A. I did not. He was wrong.

Q. If you said he said it, wasn't that the purpose of it?—A. I did not say it.

20 Q. You did not say it?—A. No. As a matter of fact, I never mentioned the word "compensation" to him at any time, so your statement is entirely untrue. That is what he said.

Q. Listen to this. This is your evidence—"Do you suggest that he admitted there was any blame on his part," and your answer was "Yes, he did admit it." Did you swear that?—A. I think so.

Q. Didn't you tell me a while ago that you didn't?—A. No. (Objected to.)

Q. Did you hear me use the word "blame" a while ago?—A. I don't remember.

30 Q. So it is true that you say that he admitted he was to blame, for a start?—A. I don't remember now whether he admitted that or not. It is some time ago.

Q. But didn't you just say "Yes," that he did admit it?—A. That he was to blame.

Q. Yes?—A. Well, he admitted that this bolt was sticking out there.

Q. Didn't you just say to me that he admitted he was to blame?
A. Well, I think that is an admission. He had this bolt sticking out 18 inches and I did not notice it. (Objected to.)

40 Q. You say that the fact that he admitted that a spike was sticking out?—A. Well, he never denied it.

Q. Well, the fact was that he admitted it, so that he was to blame?
A. Well, he never denied it.

Q. Well, the fact was that he admitted it, so that he was to blame?
—A. Well, it is tantamount to it.

Q. "Do you suggest that he admitted there was any blame on his part," and your answer was "Yes, he did admit it"?—A. I think so. He never denied that this bolt was sticking out.

Q. You heard Mr. Shand say that nothing about compensation was mentioned?—A. Something about compensation was mentioned.

50 Q. Didn't you deny that it was?—A. I said that something about compensation was mentioned.

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Q. "He said to me 'What do you expect me to do,' and I said 'expect you to compensate me'" ?—A. Oh, yes. I said that.

Q. "I expect you to compensate me" ?—A. Oh, yes, certainly.

Q. So you did say that ?—A. Yes, certainly. Of course, I expected him to compensate me, in view of the fact that I was blinded as a result of his negligence.

Q. But he denied it absolutely, didn't he ?—A. He was a liar.

Q. Was he ?—A. Absolutely.

Q. But the jury believed him, but did not believe you ? (Objected to ; pressed.)

Q. Well, the verdict was against you ? (Objected to ; pressed.)

His HONOR : As a matter of fact, the question seems to me to be academic as it is already on the notes that the verdict was for the defendant. That was given a couple of days ago. It has already been allowed in, and I allow it again.

Mr. CASSIDY : That is so, is it not ?—A. What ?

Q. You volunteered the remark that he was a liar ?—A. He was—a bad liar.

Q. The verdict was for the defendant ?—A. He was a bad liar, too.

Q. The verdict was for the defendant, was it not ?—A. Yes.

Q. You came down to this, when I was asking you questions just before I digressed—"Inflammation, tumour or cyst" ?—A. Anything containing fluid.

Q. If we dismiss tumour or cyst, it must be inflammation ?—A. Not necessarily.

Q. Well, there is no other way ?—A. Oh, yes, there is. The inflammation may have become entirely quiescent, and there might have been just serum there.

Q. So that in this case——?—A. I am talking about at this time.

Q. Which time ?—A. The quiescent period.

Q. What period is that ?—A. The greater part of the time.

Q. From when ?—A. Most of the months of the time.

Q. The quiescent period ?—A. Yes.

Q. Lasting over 12 months ?—A. Yes, I think so.

Q. You say lasting over 12 months ?—A. Yes.

His HONOR : Commencing approximately when ?—A. Well, it is difficult to say without having seen the case when the active inflammation became more or less quiet. That might have been two or three months.

Q. Before or after the admission to Quirindi Hospital in May ?—A. Well, there was an active period at the beginning and at the end, and in between then there was a long period of quiescence. It might have been 12 months or 15 months ; something like that.

Mr. CASSIDY : You say 12 months or 15 months ?—A. Something like that.

Q. "There might have been serous fluid that it was in during that period" ?—A. Serous exudation.

Q. During that period ?—A. Yes, at times.

Q. Does that destroy tissue ?—A. No.

Q. So that remains in the one spot—the tube remained then in the one spot ?—A. Not necessarily. The serous exudation might increase.

Q. But it does not destroy tissue?—A. No, because when it becomes serous that is a sign that the thing is easing off.

Q. Well, if it does not destroy tissue it does not break through the bag of the thyroid cavity?—A. No; when it is in the first stage it would not.

Q. So you would still have the bag of the thyroid cavity to prevent the tube getting out of that?—A. I am not admitting that throughout.

Q. But it was in the bag of the thyroid cavity then?—A. Yes.

Q. It had to get out?—A. Yes.

Q. It had to get out of the bag?—A. What bag?

10 Q. The bag of the thyroid cavity?—A. Yes. Supposing there were two ruptures in the cavity, one in the front and one in the back.

Q. It could not come out of the one in front?—A. It could not.

Q. But are you suggesting it came out the front?—A. I am not suggesting that it could come out the front, and it could not come out the front. Do you mean the front of the capsule?

Q. Yes?—A. I thought you meant the sinus, that you were talking about all along—

20 Q. Don't let us get away from that. You raised two ruptures—there might be one at the front and one somewhere else?—A. Well, if you are talking about the thyroid capsule I know what you mean. Will you repeat the question?

Q. Do you suggest that it could come out the front rupture?—A. It could.

Q. In this case?—A. Yes.

Q. And the front rupture is inside here (indicating)?—A. Deep in the neck.

Q. Where is it going to come to if it comes out there?—A. It might go in various places.

30 Q. If it is in deep it comes out that rupture. It is getting in front of the trachea then, isn't it?—A. It might, but it did not.

Q. So can I dismiss that?—A. In this case I think you can.

Q. So the next thing is that you presuppose that there is a rupture of the thyroid bag somewhere else?—A. I presuppose it on good inference.

Q. You are supposing then, are you, that it goes through a rupture in the thyroid bag?—A. I am not supposing, but it might do that. It is quite likely that it might have happened in this case, too.

Q. Anything might have happened?—A. Yes.

Q. It might have come out through the top of the head?—A. What do you mean by that?

40 Q. It might have gone into the brain?—A. It might. It is very unlikely, because by the time it got to the medulla the patient would have been dead.

Q. What part do you suggest it might get to?—A. It would not get inside the skull.

Q. It could not get inside the skull?—A. I am not prepared to limit the possibility of things.

Q. Is that not an impossibility, that it could get into the skull?—A. I did not say that.

50 Q. But up to it, up to the brain?—A. It might get near the base of the skull. Abscesses do get to the base of the skull.

Q. You put that as a possibility, that this tube could get to the base of the skull?—A. It is a possibility.

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Q. Now, coming back to inflammation, did you say this—page 96, line 30, 3rd trial—“Would serious fluid enlarge the cavity” and your answer was: “It might if it was inflammatory” ?—A. Yes.

Q. That was your answer before ?—A. Yes.

Q. “Inflammatory” ?—A. Yes. I adhere to that now.

Q. “That implies suppuration,” and your answer was “Yes” ?—A. No, it does not. You can have suppurative inflammation and non-suppurative inflammation.

Q. When I asked you did it imply suppuration you said it did not ?—A. Serous exudation does not imply suppuration, otherwise it would not be serous. 10

Q. “Would serous fluid enlarge the cavity,” and your answer was: “It might if it was inflammatory.” You agreed that that answer was right just now ?—A. Yes.

Q. Is this next one right—“That implies suppuration,” and your answer was “Yes” ?—A. It might.

Q. Are you altering that ?—A. Yes, I will alter it to that extent.

Q. Why ?—A. Because that is the fact—it might. A serous exudation might go on to suppuration and it might not.

Q. “So that you could only get an enlargement of the cavity by a process of suppuration.” ?—A. No, I haven't admitted that. I said that is one cause, but a cavity can be enlarged in other ways, by a fluid that is not pus. 20

Q. And is not destroying tissue ?—A. Yes, is not destroying tissue.

Q. So you follow that ?—A. Yes.

Q. Listen to this—“Partly” —A. That is why I said “Partly.” (Objected to.)

His HONOR : Ask the question.

Q. The question you were asked was this—“So that you could only get an enlargement of the cavity by a process of suppuration,” and your answer to that was “Partly.” “Of course it acts partly by destroying the tissue and partly by distending it.” Is that correct ?—A. That is correct where the suppuration is sufficiently powerful to cause a necrosia but sometimes you have suppuration which is not powerful enough to cause a necrosia. That is in the breast. 30

Mr. CASSIDY : Q. “It would have to destroy the tissue to extend the cavity,” and your answer was “Yes” ?—A. Well, it might have been. The answer that I would give to that would be “It might be.”

Q. But you said “Yes” before ?—A. Well, there is not so much difference between that and “might be,” is there ? 40

Q. You gave an unqualified answer last time, but you are altering it now ?—A. I might be. Very often you might qualify your answer. We all do that.

Q. “The foreign body would then be lying within that cavity.” Your answer was “Yes.” You were then asked “And to travel from one place to another it would have to extend that cavity by that process of destruction and suppuration.” Your answer was “There would have to be fluid of some kind. That is so” ?—A. Well, I have said that before, all along.

His HONOR : And do you say it now ?—A. Yes.

Mr. SHAND : Perhaps line 23 might be read, page 96.

WITNESS : May I say that very often—

His HONOR : No, don't say anything ; answer questions.

Mr. CASSIDY : Going back again—" Q. If you have a foreign body within the tissues that foreign body would only move as the result of a suppuration process ?—A. The movement would be a passive movement and there would have to be a cavity. The cavity might not be pus. It might be some other fluid. Q. I am speaking of a foreign body in the tissues of the neck. In order for that foreign body to move do you agree it could
10 only happen by a process of suppuration ?—A. No, by fluid. There might be suppuration. Q. What would cause the fluid ?—A. Irritation. It might be serous fluid. Q. Would serous fluid enlarge the cavity ?—A. It might if it were inflammatory. Q. That implies suppuration ?—A. Yes."—
A. No, that does not imply suppuration.

Q. That is what you swore last time ?—A. I understood that you said that inflammation implies suppuration.

Q. That is what you said last time ?—A. I don't think so. I would be surprised if I did. I said there might be suppuration—I see what you mean—" Would serous fluid enlarge the cavity ?—It might if it were
20 inflammatory. Q. That implies suppuration ?—A. Yes." I should not have said " yes," I should have said " Yes, sometimes it does." I should have qualified it.

His HONOR : It is unqualified there, and you qualify it now ?—A. Yes, because you often get inflammation without suppuration ; if I said that it is not a fact.

Mr. CASSIDY : Would this be correct—" Q. As long as that infection remained and the foreign body is there the wound would tend to discharge." —A. Tends to.

Q. And a foreign body like a rubber tube if in a wound would tend
30 to set up irritation, would it not ?—A. That depends on how it was infected and the germ with which it was infected.

Q. In this case ?—A. It might.

Q. I just want to finish with this matter. Do you remember on the third trial the question being asked you as to what is now Exhibit P ?—
A. Could I have a look at it ?

Q. That is what you saw at the last trial, you remember (Exhibit P shown to witness) ?—A. Yes, I think I saw that, yes.

Q. And you remember then saying that it was hard to imagine that
40 a thing like that could be left in the wound ?—A. I think I referred to the wire.

Q. Is that all you were referring to ?—A. I don't remember it, but I think so.

Q. The question was as to the whole thing and you said that it was hard to imagine that ?—A. I had in mind the wire.

Q. Then did you say this, if a tube were left in a patient like that it would mean a grave risk for the patient ?—A. I may have—having particular reference to the wire.

Q. Leave the wire for the moment ?—A. No, you can't, that is the essential thing so far as I am concerned.

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Q. Take the tube and the swab?—A. That would not necessarily be serious.

Q. That is a tube there with a swab that is preventing drainage?—A. Lots of swabs are left in patients and tubes are left in patients also.

Q. A swab which prevents any discharge?—A. Not necessarily serious at all. Sometimes a thing becomes quiescent and may even subside altogether.

Q. Do you remember saying this, that the surgeon might leave it there and might adopt a waiting attitude?—A. Yes.

Q. Were you serious in that?—A. Yes, perfectly. I possibly might 10 have done the same thing myself.

Q. That is to say if the surgeon knew he broke a tube and knew he left a part there and the patient was having trouble, that he knew the patient got to a very high temperature with infection that the doctor would not have gone after it?—A. He would have been an absolute madman to do so with the infected state of the neck there because the last condition of the patient might have been worse than the first and might have died.

Q. If he had left it for a week until she got right would it have been any trouble to get that out?—A. Great trouble.

Q. Are you serious in that?—A. Everything I say I am serious in. 20

Q. You know she left hospital to take a motor car trip home on the 14th April?—A. Yes.

Q. And you know her temperature was back to normal on the 22nd March, two days after the rise in temperature?—A. I don't know that.

Q. Haven't you read it?—A. No, I have not been able to get anything to show me what the temperature was.

Q. You have the record to show that there was no abnormality of temperature?—A. No records of temperature after a certain date.

Q. You have heard the witness give evidence that they did not 30 transfer from the chart when the temperature is normal? (Objected to.)

Q. Are you serious when you say that there is no evidence that the temperature was normal after the 22nd?—A. I don't recall any.

Q. Because of that are you assuming that the temperature was abnormal after the 22nd?—A. I did not say that.

Q. Well, what is the fair thing to assume?—A. I don't know.

His HONOR: What is your assumption?—A. I take it if there was any temperature then it was not very much.

Mr. CASSIDY: And nothing to stop a doctor from going for it?—A. That is a matter of opinion in the circumstances and condition of the 40 patient and the diseases they have been suffering from and lots of factors and I think if I had been in Dr. Bell's position up to that stage I would not have attempted to remove that tube.

Q. If the doctor thought or knew that he had left something in and as is suggested by you she was having this serious time for months?—A. I don't suggest it, I state it very definitely.

Q. Would you still adopt a waiting policy?—A. I might because I might say in view of the dangers of opening this neck and releasing quiescent infection, adopt a waiting policy and perhaps the whole thing would quieten down.

Q. How long would you wait?—A. I don't know. It depends on the circumstances; if the patient was going along all right I might wait indefinitely.

Q. Listen to what you said last time when His Honor asked you this question—"Q. If a patient came to you and that was in the situation stated what advice would you give?—A. I would advise them to have it out." Do you remember that?—A. Yes.

10 Q. "And if a patient said 'I would like to leave it', would you take the risk?" and did you answer this "I would say that that would be their funeral"?—Was that your answer?—A. Yes, if a patient does not act upon a doctor's advice you cannot force them to do things.

Q. "Would it be their funeral?—A. It might be. Q. That is as far as you would go?—A. Yes."—A. You cannot force them to act on advice.

Q. "Assuming that the object (indicating) travelled through by a suppurated process of destruction?—A. I do not admit that it would travel." Is that right?—A. Would you mind reading it again?

20 Q. When His Honor asked you that "Assuming that that object (indicating) travelled through by a suppurated process of destruction?—A. I do not admit that it would travel." Is that right?—A. Admit that it would travel?

Q. Yes. Assuming that object travelled through by a suppurative process of destruction?—A. I take it I was referring to the wires.

Q. You know, do you not, that this lady on the first occasion said that she felt a pricking and scratching of the wire in her intestine?—A. No, she said she felt some—I forget the exact words—that is just a patient's description. Good heavens, your patients sometimes tell you that they are suffering from indigestion and it means anything from the head to the feet.

30 Q. She said that she felt the pricking and scratching?—A. That is her description, she is not a trained observer.

Q. I will read you what she did say—"Q. Between the 2nd and 5th October you told your husband that you felt something pricking in your stomach?—A. Yes. Q. That you thought you had swallowed something and you could feel this scratching and sticking inside your stomach"?—A. Well, that is the way she described it, she is not necessarily an accurate describer or observer. I am not concerned with the accuracy so much as the fact that she was uncomfortable.

40 Q. Let us get one other thing before I finish. This lady for the first time gave evidence on the third trial that she pressed the wire and it flicked back?—A. Not the wire, something that looked like wire.

Q. The first two trials, you will agree she did not mention it?—A. She might not have.

Q. You know that she didn't, don't you?—A. No.

Q. And you know that it appeared on the scene for the first time at the third trial?—A. No, I don't.

Q. Assume it appeared on the scene for the first time?—A. What appeared?

Q. This flicking back?—A. Yes.

50

Re-examined.

Mr. SHAND: Q. At the first trial you did not give evidence but you read the evidence. Is this how the plaintiff described—(Objected to.

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Objection withdrawn.) “ Q. The next day did you notice anything about yourself?—A. Yes, I had a pain the next day like something was moving around up here (indicating upper abdomen).

Mr. CASSIDY : Now page 35.

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Mr. SHAND : “ Do you want to alter it and say it was bigger or smaller than what you have drawn?—A. It was a little smaller. Q. Is that approximately right the way it is drawn?—A. No, it is larger in diameter than what it seems. Q. In point of fact it is more than double the diameter of the tube you have showed this morning, more than twice as big what you have drawn there?—A. Yes, I suppose it is. Q. If it is more than twice as big it is not a very accurate sort of description of it?—A. It was just as the article appeared to me, I was not going into the exact size so long as I got the plan on paper. Q. What you have shown there is something in the nature of a miniature mop, two pieces of wire stuck into something. You say that is what it was that you looked at. Two pieces of forked wire like that stuck into this thing there (indicating)?—A. Yes. Q. Did you feel the ends of the wire scraping as it went down?—A. Yes, I felt the wire in my stomach. Q. Did you feel it going down there?—A. I did not feel it in my throat going down, I was only partially conscious on that occasion. Q. Did you feel it in your stomach after it went down?—A. Yes.” 10

Mr. CASSIDY : Now would you read page 36 ?

Mr. SHAND : “ Q. That afternoon first of all when it happened did you say ‘ I have swallowed something ’?—A. Yes. Q. What did you tell him you thought it was the feeling you had?—A. I did not know what it was. Q. You told him you thought you had swallowed something?—A. Yes, swallowed something but I did not know what. Q. I ask you again, on the next day, on the 3rd, you were conscious it was in your stomach and it was scratching you, the wires were scratching you inside?—A. Yes.” 30

Mr. CASSIDY : Now the top of page 37.

Mr. SHAND : “ Q. You could feel it moving in your stomach?—A. Yes.” You have had a very personal attack made on you in one matter of an action you brought against a boat builder?—A. Yes.

Q. That was an action for negligence?—A. Yes.

Q. I think you described there was a bolt sticking out somewhere? A. I had a launch on the slip and there was a bolt with braces on either side and there was this bolt sticking out eight inches, and my mind was occupied with what I was doing—

Q. I don't want the full facts, but that was the point, you lost the sight of one eye?—A. Yes, I turned my eye into it and I immediately lost the sight, and it has been like that ever since, I am blind in the right side. 40

Q. Am I correct in saying that the question was whether that constituted negligence or not, the bolt sticking out?—A. Yes.

Q. Was it denied that the bolt was sticking out?—A. No.

Q. You remember being asked when you were looking at the Plaintiff's throat before these gentlemen, do you remember being asked “ Did you see down that lady's throat?—A. Yes. Q. With which eye?—A. The left eye. Q. The right eye?—A. I cannot use the right eye and you know that ”?—A. Yes. 50

Q. And although you said that you saw down the Plaintiff's throat with your left eye my friend's next question was "Right eye" ?—A. That is so, and I said that I could not see with the right eye and that he knew it.

Q. My friend appeared against you in that case ?—A. Yes.

Q. Were you medically examined by doctors from his side ?—A. By a doctor from his side.

Q. And no doctor was called by them to give evidence ?—A. No.

Q. You said you can see with the left eye ?—A. I can see with the left eye.

10 Q. Was it perfectly well known to my friend that you were blind in the right eye ?—A. Yes.

Q. And then he put the question to you "The right eye" ?—A. Yes.

Q. It is a very serious affliction, is it not ?—A. Yes, it is not only with regard to the loss of sight, but while I am awake I have this dancing haze and I have thought very seriously of having the eye out and if it were not for appearance sake I would do it. It is a terrible annoyance.

Q. I think you answered my friend back about it, but is it a fact that you were very, very upset on that type of cross-examination ?—A. Naturally, when sport is made of a misfortune like that it is upsetting.

20 Q. My friend cross-examined you to show that there were no fomentations after a certain date at Quirindi. Did you notice on the 26th, to take one date, that there was a dry dressing on the wound ?—A. Yes.

Q. What does that indicate ?—A. That there is still a wound there, but it is not as active as before and they have substituted a dry dressing for the wet dressing.

His HONOR : The sinus finally closed somewhere about the end of June ?—A. Yes, about the end of June.

Mr. SHAND : You were cross-examined with regard to the possibility of the Plaintiff being afflicted with hysteria.

30 Q. I want to ask you this, to your knowledge the Plaintiff has been through three trials ?—A. And an appeal.

Q. Don't worry about that, three trials ?—A. Yes.

Q. And you saw the way she was cross-examined in this trial ?—A. Yes.

Q. Does that history tell you anything and seeing her here, does that tell you anything about whether she is a neurotic ?—A. I should say it is pretty conclusive proof that after everything she has been through she would be an hysterical wreck and probably uncontrollable.

40 Q. I want to ask you about the distinction between tetany and hysteria. First of all with regard to the nature of these two things. Hysteria is a neurosis of the central nervous system and tetany is a condition of irritation of the peripheral nerves.

Q. Tetany is really chemical ?—A. Yes, tetany is produced by a deficiency of calcium and in hysteria there is no deficiency of calcium.

Q. Take hereditary, has that anything to do with hysteria ?—A. Hysteria is an hereditary disease and tetany is an acquired disease, usually temporary.

Q. Can you trace hysteria back ?—A. Once an hysteria always an hysteria, it is congenital.

50 Q. Can you trace it back ?—A. Yes, it is inherited and it is congenital, it is there from birth. I do not say you get the manifestations at birth or after birth, but what we call the diathesis is there.

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Q. Take a lady of the Plaintiff's age, would you expect evidence of previous attacks?—A. Undoubtedly, if she was an hysterical subject she would have had them long before 37.

Mr. CASSIDY : Is that her age?—A. No, I meant 1937.

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Mr. SHAND : Take the palsies that you get?—A. Yes you get palsies with paralysis in hysteria, you don't get them in tetany—loss of power.

Q. Is that a common characteristic of hysteria?—A. Yes.

Q. Fairly common?—A. Yes.

Q. But you don't get it in tetany?—A. No, you don't get anæsthesia in tetany either. 10

Q. Was there any indication of paralysis here?—A. None at all.

Q. Take the administration of calcium in the two complaints?—

A. It is ineffective in hysteria, but a specific in tetany. When I say a specific I mean very effective.

Q. Do you know whether here it was effective or not?—A. Most effective.

Q. Carpo-pedal spasms?—A. Yes, that is the hand and the feet. Carpo-pedal spasm is characteristic of and peculiar to tetany, it does not occur in hysteria unless in a bad case of hysteria where the patient is suffering from what we call anorexia nervosa, starvation, which is a terminal condition, there tetany may come on, but that is not due to hysteria, it is due to the malnutrition, and in that case the tetany is subsequent to the hysteria, and does not precede it. 20

Q. These spasms that you heard described, do you say they are typical of tetany?—A. Absolutely. The carpo-pedal spasm, the so-called accoucheur's hand, is characteristic of and peculiar to tetany, in medicine what we call patho-mnemonies of disease.

Q. My friend asked you for a lot of references yesterday. I notice he did not ask for them this morning. Will you produce them to me?—A. Yes. 30

Q. What about loss of sensation?—A. Anæsthesia, in common hysteria; it does not occur in tetany, rather the reverse, pain.

Q. And what about hysteria?—A. I say it is common in hysteria, it occurs in hysteria.

Q. Take the effect on the voice of the two?—A. In tetany in some cases you get hoarseness, but in hysteria you get what is called euphonia, a loss of voice, you don't get that in tetany.

Q. What about the effect on emotions?—A. The hysterical subject is very susceptible to emotional impressions or shocks.

Q. Does that mean crying?—A. No, if they are upset by anything, say a trial like this or domestic upsets. 40

Q. Severe cross-examination?—A. Oh yes. But it would not have any effect in tetany, unless of course the patient had the two diseases, hysteria and tetany.

Q. Did you see any trace of that emotional effect in this lady?—A. There was not any trace of it, on the contrary I think that she has been remarkably calm seeing what she has gone through.

Q. What about the face and the tongue?—A. Yes, the face and the tongue are affected in tetany, but not in hysteria.

Q. What about this case?—A. Yes, facial spasms, with regard to the tongue I don't know whether there is any evidence of that, there may or may not be. 50

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Q. But the facial spasms there are?—A. Yes.

Q. Perhaps we might at this stage refer to Taylor. What about the spasms, are there distinctions between the types of spasms you get in these two complaints?—A. There is a distinction between spasm, contraction and contracture.

Q. What do you get in tetany, what do you call them?—A. You get tonic spasms in tetany.

Q. Is that contraction?—A. Contraction is prolonged; one is tonic and the other is clonic.

10 Q. What about the hysteria?—A. You may get both the clonic and the tonic contractions in hysteria.

Q. What about the duration?—A. In hysteria the duration may be very long, it may be days, weeks, months, and in some cases, years, but you never get that in tetany, the patient cannot stand it.

Q. Did you see anything of that in this case?—A. No, there was nothing of that.

Q. Take the effect on the motor and sensory nerves?—A. Well, the motor and sensory nerves in hysteria, you can get paralysis or spasms.

20 Q. Are they unilateral or bilateral?—A. I would say it is rather usual, the spasms or the loss of sensation to be unilateral in hysteria, and usual in tetany for the signs to be bilateral.

Q. Usual, but not always?—A. No, you may get exceptions. Of course you can in hysteria get spasms on both sides, but it is more common to have them on one side.

Q. Do you get unconsciousness in hysteria?—A. No, not really hysteria, you may get it in that hybrid hystero-epilepsy.

30 Q. But you do get it occasionally in tetany?—A. Yes, in bad cases, and when you get it in tetany it may be due to the tetany or it may be due to the tetany and asphyxia. You often get asphyxiation and in bad cases unconsciousness.

Q. Do you remember yesterday a passage out of Cecil was read to you to indicate that there was in some way a similarity between the signs arising from hysteria and those arising from tetany?—A. Yes.

Q. And you referred to the fact that there was a particular type of disease mentioned there—in Cecil you referred to page 1415 with a reference to symptoms, the ocular muscles are affected, and we have diplotia?—A. Is this in tetany?

40 Q. No, it was put to you in regard to hysteria. Strabismus, spasmodic oscillation of the eyes, you remember that being put to you? —A. Yes.

Q. And do you remember also being cross-examined to the effect that you would not get one eye affected?—A. Yes, I remember that; is this in tetany?

50 Q. Yes, in tetany. I am going to read to you from the same book, it was not put to you by my friend, at page 1139, I am directing your attention particularly to certain muscles only being affected by tetany, it is under heading of Tetany: "Symptoms: The symptoms may be latent, induced by certain stimuli or manifest occurring spontaneously. They usually appear abruptly and consist of intermittent tonic contractions of certain groups of muscles, frequently those supplied by a certain nerve, brachial and lumbro-sacral. This results in the assumption of characteristic

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attitudes such as the obstetrical hand and carpo-pedal spasm " ?—

A. Yes, accoucheur's hand.

Q. Do you agree with that ?—A. Yes.

Q. " These are by no means always the same for the position assumed depends upon the nerves involved. The spasm is most frequently bilateral but at times only one arm or leg or one side of the body is affected " ?—

A. Yes.

Q. Do you agree with that ?—A. Yes.

Q. " It at times involves the muscle of the larynx, face, jaw, neck, trunk, eye and diaphragm " ?—A. Yes. 10

Q. Cross-examination was directed from this book at the previous trial ?—A. I think so.

Q. And the book came from the Defendants ?—A. Yes.

Q. And the contest always had been at previous trials whether there could be this effect on one side, unilateral, of the eye ?—A. I think the contest was whether it would be so strictly localised as to pick out the eye.

Q. Was this passage ever put by any of the doctors before ?—A. No, never.

Q. You say you have got access to the library ?—A. No.

Q. " Frequently the spasm shifts from one part of the body to 20 another " ?—A. Yes.

Q. " Or it may occur in many parts simultaneously " ?—A. I agree with that.

Q. " The duration of each spasm, of the intermissions, and of the entire attack is quite variable " ?—A. That is so.

Q. " In severe cases the spasm may be continuous and persist until medication or surgical intervention brings relief " ?—A. Yes.

Q. " In others the attack ends spontaneously within a few hours " ?
A. Yes.

Q. " The smooth muscle of the bronchii, vascular system, digestive 30 apparatus and uro-genital tract may also be affected " ?—A. Yes.

Q. " There is no loss of consciousness." You would agree in the ordinary case there is not ?—A. Usually.

Q. In your experience and reading is this a unique case, is it a very rare case ?—A. Not the tetany, but in this affected case.

Q. And lasting for some nineteen months after an operation ?—
A. Yes, very rare. I cannot recall another case.

(Short adjournment.)

Q. An illustration was produced in a textbook showing the muscles in the throat ?—A. Yes. 40

Q. I asked you whether it served to retain a tube ?—A. Yes.

Q. A tube that was broken off ?—A. Yes.

Q. Did you ever suggest that might exercise sufficient force to clasp it and make the tube break ?—A. No.

Q. You were asked yesterday if you could refer to textbooks with regard to localisation of spasms, reference being made particularly to the eye ?—A. Yes.

Q. Is Barr's Modern Medical Therapy and General Practice a recognised textbook ?—A. I think so.

Q. I refer to Vol. 3, page 3, 128-9. Are there various tests that can be 50 and could have been applied to Mrs. Hocking to ascertain whether it was true tetany or not ?—A. Yes.

Q. What are those tests?—A. There are commonly three tests, Erb's test, the Chvostek test, and the Trousseau test. The Erb's test is an electrical test, with a constant current, opening and closing, to which the tetany nerves are more sensitive, so that it requires a very much smaller current, showing the hypersensitiveness of the motor nerves. The Chvostek test is a test showing the irritability of the nerves. If you stroke over the facial nerve (demonstrating) you will notice the contractions starting above and going down following the finger.

Q. Twitching?—A. A spasm of the facial muscles.

10 The Trousseau test is a test which depends upon interfering with the blood supply to the parts. You put a band or a constriction around the part, and you get spasm coming on for a certain time afterwards in the muscles below that part, particularly in the hand.

Q. That means that in a person suffering from tetany, who is more or less starved for calcium, it further starves the person?—A. That is so. There is less calcium than there should be, and by interfering with the blood supply, you reduce it more, and that probably is the explanation of the test.

20 Q. Is there any reason why one or all of those tests could not have been applied to Mrs. Hocking?—A. No, no reason.

Q. Would a person suffering from a hysteria merely, react to those tests?—A. No, they would not.

30 Q. Now, at page 3128 of Barr: "The first of these was pointed out by Trousseau in 1868 and is obtained by pressure upon the blood vessels and nerves of the upper extremities, Trousseau's sign may be elicited by the application of a tourniquet, or most effectively by the use of a blood pressure cuff. Even in susceptible individuals three minutes or more of pressure may be necessary to produce the obstetrical hand, which is the term applied by Trousseau to the carpal spasm. Chvostek's sign is elicited by tapping over the trunk of the facial nerve just anterior to the external auditory meatus. In latent tetany the response consists of a localised spasm of the muscles supplied by the stimulated nerve and involves the lip, the nose, or the entire side of the face. The sign may be obtained in patients who at the time present no other evidence of tetany. Study of the response to electrical stimuli in tetany was initiated by Erb of Heidelberg in 1874 and has since been extended by Von Piquet and many others. The Erb phenomenon depends upon the fact that in tetany the neuro-muscular response to the galvanic stimulation is obtained with much weaker currents than in normal individuals." I turn now to page 3129, 40 dealing with the subject of localised spasms. "In the generalised convulsions the muscles of the ventral aspect of the body are usually more affected than those of the back. The chin is drawn forward and downwards and may touch the sternum. The face is involved and in severe cases is contorted into a ghastly grin in which the mouth is drawn upwards and the eyes are closed. The diaphragm may be affected so seriously as to cause great difficulty in respiration, or in some cases complete apnoea. Speech is thick because of the involvement of lingual muscles. Strabismus may be a prominent and troublesome symptom"?—A. "Strabismus" is the medical term for squint.

50 Q. "Nystagmus" and inequality of the pupils have been noted?—A. Yes, the inequality of the pupils shows the difference on the two sides.

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I forgot the last time. That was one of the references that I had, and I forgot to mention it.

Q. That indicates certain muscles may be affected?—A. It indicates either that certain muscles may be picked out or there may be more action on one side than the other. Strabismus, the unequal action of the eyes, indicates the same thing.

Q. Now I refer to Joll Diseases of the Thyroid Gland, upon which you were cross-examined on one or more aspects yesterday. You have been cross-examined on this book before, in the last trial?—A. As far as I remember.

Q. I am going to put to you a passage that was never read to you before page 593: "In 2,000 consecutive thyroidectomies I have had one mild transient case (of tetany) in a patient who had previously undergone elsewhere several operations for recurrent simple goitre. Neither of the inferior thyroid arteries was tied in this patient and no treatment for the tetany was necessary. She has recently had a further operation for recurrent goitre without the repetition of any further indication of interference with the function of the parathyroid." You have said yesterday that you would not expect, in these days, tetany to follow an operation of thyroidectomy?—A. I would not say I would not expect it, but it is getting more and more rare, with improved technique.

Q. Two thousand cases, and one mild transient case of tetany?—A. It should be rare these days, that is, in the hands of a good operator.

Q. "When the complication occurs its earliest indication is a feeling of numbness or pins and needles in the forearms." Do you agree?—A. Yes.

Q. Do you note that that happened here?—A. Yes.

Q. "Which is seldom noticed until twenty-four hours or longer after the operation and may be delayed for weeks"?—A. Not before twenty-four hours.

Q. There is circumoral pallor?—A. That is around the mouth.

Q. "Spasms of the hands occur within a few hours of the onset of subjective symptoms and may vary very widely in degree. In mild cases there is merely a certain amount of stiffness of the fingers, and a loss of the finer movements of the hand, while in more severe grades complete carpal spasms with formation of the obstetrical hand occur"?—A. Yes, I agree with that.

Q. "The spasmodic contractions may last for a few minutes, with long periods of relaxation, or in certain cases they may be maintained for hours or even days. The lower limbs may be affected and also the muscles of the head and neck." Is that so?—A. Yes.

Q. "Spasm of the ocular muscles is sometimes met with"?—A. Yes.

Q. That is, the eye muscles?—A. Yes. "Ocular" muscles mean under the lids, in the orbit.

Q. "Occasionally even affecting the power of accommodation"?—A. Yes, the pupils and the ciliary muscle.

Q. "Respiratory difficulties may be due to spasm of the adductor muscles of the larynx"?—A. Yes, that is so.

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Q. "The characteristic Chvostek sign is obtainable even when there appears to be no involvement of the facial muscles" ?—A. That is latent tetany, subjective.

Q. You were invited to produce references in textbooks to the effect that a patient suffering from tetany can become unconscious ?—A. Yes.

Q. Have you the references there ? I refer one to you first of all, in the British Encyclopedia of Medical Practice, Vol. 9, pages 428–9.

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10 "coma" is "unconsciousness."

Q. Again, in the same edition of Barr, Vol. 3, p. 3129 : "During the spasm the muscles are firm. Release is accomplished only by exerting considerable force, which often leads to a more violent contraction. In severe attacks the patient may experience excruciating cramp-like pains. Consciousness is seldom lost. Do you agree with that ?—A. "Seldom" implies that it can be lost, yes.

Q. As you have already said, in severe cases ?—A. Yes.

20 Q. I refer you to Allbutt and Ralston, System of Medicine, 1910 edition, vol. 7, on two matters. First of all, the fact that certain muscles may be picked out. Page 590 : "The tongue may participate in the spasm and the consequent stiffness may cause difficulty in articulation. Swallowing may be difficult owing to the spasm of the muscles of the pharynx, and articulation from spasm of the laryngeal muscles." Do you agree with that ?—A. Yes.

30 Q. "Noisy breathing and stridor naturally accompany this condition, and laryngoscopic examination during the spasm reveals that on attempts at phonation the vocal chords do not approximate, nor do they separate on deep inspiration. The degree of spasm and the extent of its distribution vary considerably ; it may be but slight, involving a single muscle or group of muscles" ?—A. Yes, I agree with that.

Q. "Or it may be widespread. The hands may be affected alone, or the hands and feet ; in other cases the whole of the limbs of the body are involved ; in others again the trunk and neck muscles are invaded by the spasm" ?—A. Yes, I agree with that.

Q. On the question of unconsciousness : "In cases of still more widespread spasm, when the masseters, the muscles of the tongue, pharynx, and larynx become involved, and the breathing may become exceedingly difficult, the patient becomes cyanosed and for a short time consciousness may be lost" ?—A. I agree with that.

40 Q. Do you remember yesterday you were cross-examined for over an hour on this subject ; you said by certain indications in the records you took the Plaintiff to be a very sick woman after the operation ?—A. Yes.

Q. You yourself referred to records as to what induced you to come to that conclusion ?—A. Yes.

Q. Do you remember it being suggested to you—in over an hour—that you must be wrong, because of the pulse, for one thing ?—A. Yes.

Q. Is it a fact that the Defendant, Dr. Bell himself, swore in the first trial, at page 138, line 2—(Objected to.)

Q. You have read this ?—A. Yes.

50 Q. Is it in view of what you have heard in court, and what you have read, that you base your conclusion ?—A. Yes.

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Q. I suppose you will agree that she was dangerously ill?—A. She was seriously ill when she went in, and she was dangerously ill after the operation?—A. Yes.

Q. Does that agree with your deductions—that she was dangerously ill?—A. Substantially.

Mr. SHAND : Might I have it noted that, if my friend wants me to read any portion of Dr. Bell's evidence relative to this matter, I will read it.

His HONOR : Mr. Cassidy says he proposes to tender the whole of the record of Dr. Bell. I suppose he could do it this way, read the whole of his 10
evidence now.

Mr. CASSIDY : I do not want to do that.

Mr. SHAND : In the second trial, I think you gave evidence for the first time. Is it correct that Dr. Bell, on page 289, the last question, gave evidence to this effect in chief to his own counsel : " Q. Looking at the hospital records, and on your own recollections, what would you say of the woman's condition following the operation on the day and night of the operation and the following day?—A. The condition was serious. I would say she was seriously ill " ?—A. Yes, I think I have a vague recollection of something like that. 20

Mr. SHAND : You were cross-examined about the manner in which a tube which was inserted in the right side of the neck went across the left lobe—did you draw a diagram to indicate that?—A. Yes, just a rough diagram, which I produce. It is only rough, and is what we call diagrammatic.

Mr. CASSIDY : It must be the tube that is in evidence of the length described—not 3 or 4 inches or something else. I object to the diagram.

His HONOR : Do you want to ask any questions on the voir dire ?

Mr. CASSIDY : Yes.

Mr. SHAND : I will not tender it—to save time. 30

Q. It has been put to you that an abscess about the thyroid, or pus forming an abscess, could not discharge into the neck or throat—it could not travel up because it would interfere with different structures of the neck?—A. It could travel in any direction.

Q. I know, but do you remember being cross-examined about that?—A. Yes.

Q. Either the tube or the pus could travel because the tube travels in some kind of liquid or pus?—A. Yes.

Q. It was suggested that if pus came in contact with the vital structures of the neck it would rupture them or cause some serious injury?—A. Yes, 40
that was suggested.

Q. Boyd " Text Book of Pathology "—is that a recognised textbook?—A. Yes.

Mr. CASSIDY : I object to the question—that is pus with a foreign body travelling in it.