

## FACTITIOUS SUITS FOR MALPRACTICE.

Dr. Scott's communication was as follows: —

"The following case, the truth of which will be sworn to in court by the undersigned, is submitted to the profession for their opinion as to the treatment pursued. An action for malpractice has been instituted and damages laid at twenty thousand dollars.

"Emma Parkinson, aged twenty-seven, one child living, admitted into the California State Woman's Hospital, 20th November, 1869.

"*History*: Has been suffering for a long time from uterine disease, and has been treated for it without relief, in Australia, Virginia, and in this city. Has had several miscarriages, and one still-born child, and her general health has been so broken down as to unfit her for the most ordinary exertion. Complains of constant pain in the back, profuse vaginal discharge of a highly irritating nature, general ill-health, and great debility.

"On examination, the uterus was found partly retroverted and adherent; ulceration of the os; the granulations prominent and bleeding to the touch; vagina inflamed, tender, and studded with minute granulations; discharge purulent and acrid; constitutional syphilis.

"*Treatment* consisted in administration of minute doses of mercury, followed by iodide of potash and cod-liver oil, a few leeches applied occasionally to the back wall of uterus, hot-hip baths, warm vaginal injections and

rest in bed. Subsequently the ulceration was treated by topical applications of iodine, c. acid, and glycerine, chromic acid, creosote, and tinct. ferri muriatis. These remedies failing to heal the ulceration or remove the discharge, the following operation was performed March 5th, 1870. The granulations were shaved off the os with the scissors, and the adjacent mucous membrane drawn across the stump and united on each side of the os by silver sutures. The wound healed by first intention, and as a consequence the vaginitis and discharge entirely ceased, and had not recurred up to June 7th, when the patient left the hospital convalescent. It is now charged that the patient has sustained irreparable injury (nature of injury not stated), and that her health has been permanently impaired by the operation and treatment.

"The opinion of the profession is respectfully requested:—

"1st. As to the propriety of the entire treatment.

"2d. As to the possibility of the patient's suffering any injury by the operation."

Dr. Storer stated that, after receiving Dr. Scott's communication he had taken the liberty, before presenting it to the Society, in view of the importance of all the points involved, of addressing a letter to one of the most prominent physicians of San Francisco, in whose opinion he placed great confidence, with a view of obtaining from a disinterested source further light upon the case. The reply was to the effect that the suit was probably brought, like that against Dr. Sayre, of New York, for black-mailing purposes, and it would also appear, like the New York case, to have been instigated, if not originated, by some professional enemy. In addition to this, there was reason to

believe that it served to cover an attack of the grossest character upon gynæcology and all specialism in the treatment of uterine diseases. Dr. Scott's statements, he was informed, would be sworn to as true by his assistants, Drs. Davis and Burgess, of San Francisco, both of them well-informed and very respectable gentlemen.

Dr. Storer went on to remark that he had requested Dr. Scott to send him replies to the following questions. The replies had just been received, and he would present them in immediate connection with the respective inquiries.

Question 1. "Give me the exact details of how you brought together the mucous membrane after shaving off the granulations; whether you dissected any of it up; and if so to what extent?"

Answer 1. "With the scissors I denuded the stump of the cervix, removing the granulations and mucous membrane to the depth of about one-eighth of an inch. There was free bleeding, which gradually ceased on drawing the mucous membrane over the denuded surface with two tenacula, and holding it there for some time. I then passed two silver sutures through the mucous membrane, taking care not to include any of the parenchyma on each side of the os, leaving the latter free. I did not dissect back the mucous membrane, for there was no difficulty in drawing it across the stump."

Question 2. "Did you take measures to keep the os permeable; and if so what were they? Was there any atresia of the cervix or vagina when the patient left your hands?"

Answer 2. "There was no atresia, and the os was open like a virgin os, and so permeable that I did not

think it necessary to incise it, as I sometimes do, and then apply iodine to the incision."

Question 3. "Have the menses been present, and if so, regular, since the operation?"

Answer 3. "The menses have within my knowledge recurred three times at the regular period, of twenty-eight days, lasted the proper time, *and were painless.*"

Question 4. "Was there pelvic cellulitis during the convalescence?"

Answer 4. "There was no pelvic cellulitis resulting from the operation.

"The fact was, I scarcely expected union by first intention, and was astonished to find it had actually taken place, leaving a perfectly healed surface with a permeable os. Indeed, to say the truth, I rather anticipated no healing by either the first or second intention, and the entire disappearance of the granular vaginitis, with the discharge and the horrible pruritis attendant on it, not a little astonished me. I may mention, however, that I have cured the most intolerable and long-standing pruritis by a similar operation, even where no erosion was present; and I account for it by the removal of the diseased follicles, as the extent taken off seldom exceeds one-eighth of an inch, except there happen to be 'allongement' of the cervix requiring a large removal."

In view of these statements, Dr. Storer remarked that personally he had not hesitated to express to Dr. Scott the following opinion: "From the evidence you have laid before me, I consider your operation to have been a perfectly legitimate and scientific one, required by the circumstances existing, and properly performed; and I believe you will receive the sympathy and support of the whole profession,—so far, at least, as it

understands the simplest principles in the treatment of the diseases of women."

The President, Dr. Lewis, stated that the case seemed clearly one in which there had been some violation of that portion of the Code of Ethics of the American Medical Association which pertains to the acknowledgment by medical men of each other's professional good name and repute; otherwise he did not think that such a suit could have had any support.

Dr. Wheeler thought that Dr. Scott's report and the corroborative evidence mentioned by Dr. Storer went to show that the gentleman had done but his duty. In such case, he should be sustained against any unjust attack or combination. Any one of the immediate members of the Society was liable at any moment to be exposed to a similarly distressing experience. He considered it due to their distant brethren, affiliated with them as corresponding members, as well as to the honor of the profession, that the Society should afford, so far as it was possible, its support to any competent gynecologist who was unjustly accused of malpractice. He would therefore move that the Society express its formal approval of the course pursued by Dr. Scott in the treatment of the Parkinson case, and that this action, with the Society's expression of sympathy, be communicated to Dr. Scott over the signatures of the President and Secretary.

Dr. Bixby seconded the resolution. He was not personally acquainted with Dr. Scott, but he was with the gentleman whose letter in evidence had been read by Dr. Storer. He was satisfied that it could be implicitly relied upon.

Dr. Wheeler's resolution was then voted upon, and it was unanimously passed.

The Secretary read a communication from Dr. J.

Hjaltelin, of Iceland, "Chief Physician" of that country under the Danish Government, and an Honorary Member of the Society, upon