

for two years after an ovarian tumour had attained such a size as to raise the question of ovariectomy. He had stated his grounds for this belief in a paper read before the British Medical Association at Canterbury, and it was very interesting to find that Dr. Hewitt's analysis of Dr. Lee's own cases more than confirmed the accuracy of his estimate of the duration of life under palliative treatment. He did not agree with Dr. Hewitt in regarding fluctuation as being necessarily found in progressive ovarian tumours. He had seen many cases of such tumours, which grew very rapidly, and yet fluctuation could not be detected; especially if there was much fat in the abdominal wall. Nor did he think that it could be called a mistake if a surgeon removed a tumour, although he did not feel certain whether it would prove to be uterine or ovarian. The great questions were—"Is it movable, and can it be removed?" In two of his cases great doubt had been felt before the operation. One of them had been alluded to in the paper. The other patient had been examined by at least twenty gentlemen of great experience, and about half thought the tumour was uterine, and the other half ovarian. He himself felt great doubt, after repeated examinations; and though, at the time of the operation, he was inclined to think it was ovarian, he would not have been surprised if it had proved to be a peritoneal fibrous outgrowth from the uterus. Had it proved to be so, it would have been removed quite as easily, and probably quite as safely as it was, though the patient made an excellent recovery. Provided the uterus and the tumour could be moved independently of each other, he thought the surgeon need not be deterred from operating by any doubt as to whether the tumour were uterine or ovarian; and he certainly could not be accused of a mistake if, before his operation, he felt the impossibility of being positively certain as to his diagnosis. Mr. Erichsen's support of the principle of the operation by comparing the mortality with that of other recognised operations was most valuable. With regard to anasarca, he had been led to regard it as an unfavourable sign, and had noticed that many of the patients in whom it had been present had done badly; but he thought we were arriving at a sort of law that, when it merely depended upon the pressure of the tumour retarding the return of blood from the lower limbs, it was of no more importance than in pregnancy. But when it depended on disease of liver, or spleen, or kidneys, or heart, or on leukæmia, then it should lead the surgeon to consider the case as unfit for operation. So with ascites. If it depended on disease of the liver, kidneys, or spleen, or on chronic disease of the peritoneum, the case was very unfit for operation. But if no such disease could be detected, and the dropsy seemed to be caused by the mere pressure of the tumour, or by its movements mechanically irritating the peritoneum, the effusion ceased as soon as the tumour was removed. He had seen several such cases do very well. In one there were fifty-seven pints of ascitic fluid, and in another forty pints. He could quite confirm Mr. Erichsen's statement that persons above fifty years of age recovered remarkably well. He had operated on seven patients between the ages of fifty and sixty, and only one died. But he did not think young women unfavourable subjects for the operation. He had twice operated successfully on girls of seventeen, and of fifteen cases between twenty and thirty, twelve had recovered. Between forty and fifty, of eleven cases, seven had recovered. But, between thirty and forty, of fifteen cases, only six had recovered. They seemed to do better before thirty or after forty, than between those ages. Whether this was accidental, and would be corrected by a larger number of cases, he could not say. He quite agreed with Mr. Hutchinson's remarks as to adhesions, although in many cases very extensive adhesions had not appeared to have any retarding influence upon recovery; and he concluded by thanking the Society for the attention which had been paid to the paper.

Correspondence.

"Audi alteram partem."

WALTERS AND ANOTHER *VERSUS* LUSH.

To the Editor of THE LANCET.

SIR,—In your last week's impression, I observe that Mr. B. W. Lara, apparently stung by your comment upon the above trial in THE LANCET of November 29th, has emerged from the self-obscurity he indulged in during its progress, and I consequently am compelled to publish a plain statement

of the facts and reasons that induced me, in the interests of the profession, to resist a demand which I deemed extortionate. Why Mr. Lara, having brought the action in his partner's name, to the exclusion of *his own*, now discloses his complicity therein, I cannot say: possibly unexpected success has made him envious of his late associate's fame, and we know that in the balance against *envy*, *discretion* often kicks the beam.

Warned by my example, I trust that medical men will narrowly scrutinize the tenor of a *printed circular*, the postal delivery of which, in answer to an application for terms, is held to be an implied authority to Messrs. Lara and Walters to make a charge as commission utterly disproportionate to the work done, and where *absolutely no information that could be acted upon* was afforded by them to the persons who sought it.

Though the case came twice before the Court, and was nominally tried before a jury, the real facts never came out. The judge (Baron Martin) at the conclusion of the plaintiff's case, without permitting the defendant to offer rebutting evidence, directed the jury to return a verdict in a certain form, to be argued in the full Court, where, of course, the judges decided only upon the facts *already deposed to* in the Court below—dry law, and not the merits of the whole case, clearly alone influencing their judgment.

In August, 1861, I applied to Lara and Walters, of 6, Pump-court, Temple, to find me a successor in a general practice I had carried on at Salisbury during twenty years, but from which private circumstances rendered it necessary that I should retire in March, 1862. After two or three letters had been exchanged, I authorized them to offer the introduction for sale in the usual way, stipulating, however, for obvious reasons, that "I relied upon their not disclosing the name of the vendor, nor his place of residence, except to a *bona fide* applicant."

It appears from Mr. Walters' evidence, that in reply to my inquiry for their terms, they sent me a printed paper containing the subjoined clause, though I certainly never read it until it was again sent to me *underlined*, when Lara and Walters eventually applied for commission. Though in some way I gathered that their charge was five per cent., I did not read the following crafty and fatal paragraph:—

"Disputes often arise as to the right to commission when principals employ other agencies; therefore, to avoid all question upon this, it is distinctly understood that the commission becomes payable upon the adjustment of terms between the contracting parties in every instance in which any information has been derived at, or any particulars, whether in writing or otherwise, have been given by, or any communication whatsoever has been made from, this office, however and by whomsoever the negotiation may have been conducted, and notwithstanding the business may have been subsequently taken off the books, or the negotiation may have been concluded in consequence of communications previously made from other agencies, or on information otherwise derived, or the principals may have made themselves liable to pay commission to other agents."

With the paper came a letter from Lara and Walters, well calculated to put anyone off his guard in such a matter, in which they wrote, "*you will see that you need be at no expense until we find you a purchaser.*" As I never intended, in applying for the aid of Lara and Walters, to bind myself and my affairs irrevocably to their behests, I took other steps, and made various efforts, by replying to advertisements in the medical journals, to obtain my object, the more especially as there was little time to spare, and no good result appeared to follow my application to them.

To one of my private letters, Mr. Needes, of Belgrave-street, Euston-road, replied, and I eventually sent to him also the particulars previously furnished to Lara and Walters, who, I may observe in passing, gave me the addresses of only two gentlemen during the whole transaction (five months)—one of them not sufficiently qualified, and the other, who desired an inconvenient concession, did not apply until after I had made arrangements with Dr. Young.

That gentleman, being on a voyage for the benefit of his health, was expected to return in November, and Mrs. Young on his behalf wrote to Lara and Walters for particulars of some practices for disposal. This was in October, and their reply was that "they trusted all the practices then on their books would be cleared off before the end of November," and therefore that it was needless to send her any particulars of them.

On November 16th she wrote to them a second time, and they then sent to her written particulars of two practices, neither of them true as to mine in several important elements, and either

of them *equally* applicable to mine in other points. In one which the plaintiff Walters swore was meant for mine, it was stated, *inter alia*, that "the vendor kept an assistant and seven servants." This was false, but was in itself sufficient to deter Mrs. Young from taking further steps about a business so expensively conducted.

But to these alleged particulars, in which neither my name nor any clue to the locality was given (though it was clear that Mrs. Young was a "*bonâ fide*" applicant), was appended a clause that "if Dr. Young would sign an agreement they always now insisted upon, pledging himself to pay the purchase money through their office," Lara and Walters would furnish further particulars.

As a matter of fact, there the correspondence between Lara and Walters and Mrs. Young ceased; and no further communication passed between them, directly or indirectly.

Meanwhile Mrs. Young had, upon information supplied by Mr. Needes, written to inquire about the salubrity of Salisbury, and a few days after Dr. Young's arrival from Australia, he personally investigated the character of the practice, and agreed to become my successor the first week in December. Dr. Young was in Court at the trial, prepared to state that he did not obtain any information whatsoever from Lara and Walters on the matter, and though Mr. Baron Martin assumed that he had in the dictum, "that whatever a wife knew she of course told her husband." Mrs. Young actually deposed before the trial was so abruptly stopped, that "she had not the smallest idea that the particulars furnished to her by Lara and Co., had reference to the practice about which she was at the same time in correspondence with Mr. Needes," viz., my own.

The negotiation was begun and carried to a conclusion entirely through the agency of Mr. Needes; and though well aware of my anxiety for a speedy settlement of the business, Lara and Co. never condescended to name to me the fact of either the first or second letters from Mrs. Young, until they demanded their commission for replying to them.

Her first application they curtly refused to attend to; and they clogged their reply to her second with a condition, to which, in the absence of her husband, Mrs. Young could not accede—and which rendered perfectly nugatory the garbled statement of particulars they sent to her. I of course paid to Mr. Needes the commission he had honestly earned; and notwithstanding the express statement in Lara and Walters' letter already quoted, "you need be at no expense until we find you a purchaser," I wrote to them also to send their bill of charges, which, amounting to £5 8s., I forthwith paid, though upon their ascertaining that Dr. Young was the husband of the lady to whom they had written the two letters before referred to, Lara and Walters demanded full commission.

This I refused to pay, and thereupon an action was brought, resulting in my being mulcted in the Court of Exchequer in the sum of £150 3s. in addition to my own costs, and to the £5 8s. already paid. This outlay, however, I shall not greatly regret, if it have the effect of opening the eyes of the profession to the deplorable state of the law of medical agency. No vendor can be safe from a similar liability to absurdly unjust demands whilst the law is as thus declared, unless there is in every instance a special contract and bargain between both parties.

I pass over the sneer of Mr. B. W. Lara as to my want of candour in not stating that I should use other agency if it offered. It was fortunate for me that I did not rely solely upon his firm; and in reply to his assertion that "if left to them the sale would have been effected without another half hour's labour on their part, precisely when and as it was," I aver that at the trial Mrs. Young deposed that "she had been expressly desired by Dr. Young not to apply to Lara and Walters at all;"—and Dr. Young himself was in Court prepared to state that, for sufficient reasons, nothing would have induced him to enter into negotiations with them, nor knowingly to have anything to do with a practice offered through their agency!

I am, Sir, your obedient servant,

J. A. LUSH.

Fisherton House, near Salisbury, December 15th, 1862.

To the Editor of THE LANCET.

SIR,—The letter of Mr. B. W. Lara in THE LANCET of the 13th inst., demands a word or two from me, as regards his assertion that the sale of Mr. Lush's practice would "have been concluded precisely when and as it was," had that gentleman left the negotiation solely in the hands of himself and his partner.

First I beg to state that which I was prepared to prove on oath at the trial had I been permitted so to do—namely, that neither directly or indirectly did I or my wife receive any information whatever respecting the practice at Salisbury through the above-named firm; and secondly, had the business really been offered me by those gentlemen, the fact of its being in their hands for disposal would have effectually precluded me from negotiating the matter. Trusting to your sense of justice to insert this,—I am, Sir, your obedient servant,

Salisbury, December, 1862.

EDWARD YOUNG.

* * No further communication on this subject can be inserted.—ED. L.

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