

## Medico-Legal

### FORGOTTEN SWAB

In the Queen's Bench Division on March 15 Mr. Justice Pearson gave judgment for £3,000 damages in favour of Mrs. E. B. J. Urry, aged 31, of Maidenhead, against Mr. Immanuel Bierer, gynaecological surgeon, of London, W.1, and the proprietors of the Harley Street Nursing Home in respect of a caesarean operation at the nursing-home on January 7, 1953. Mrs. Urry complained that a pack about 10 in. (25 cm.) square was left inside her, necessitating an operation on January 13 for its removal.

The defendants denied any negligence. A similar action against the surgeon who assisted at the operation, Dr. Max Odens, was dismissed with costs awarded to him.

Mr. Justice Pearson, giving judgment, said the nursing-home and the theatre sister, Mrs. Gwendolen Cole, had and deserved to have the highest reputation. Mr. Bierer had long and wide experience and held a number of appointments. The nursing-home provided the packs. Mr. Bierer had not operated at the nursing-home before nor had he operated with the same theatre sister. His Lordship said the surgeon normally asked the theatre sister if swabs were correct. Then there was what might be called the ritual of the sister's count of the used packs together with any outstanding pack or packs left for the surgeon's use later. Mrs. Cole's evidence was that on this occasion there were eleven used packs and one available for Mr. Bierer. Mrs. Cole and her assistant both counted the packs audibly, and Mrs. Cole ended by pointing out the twelfth and last pack, which was available for Mr. Bierer. The judge said his view on the balance of probabilities was that it was a pre-count pack which was left behind. On that assumption, it followed that there was an error in the count, and it had been admitted that on that finding there was negligence and the nursing-home was liable.

Mr. Bierer had agreed, said the judge, that the surgeon had a duty to take reasonable precautions against leaving a pack behind, but thought that duty was performed by relying solely and exclusively on the sister's count of the swabs. His lordship found that it was not proved that that was in accordance with any approved practice. The sister's count was fallible, and some other precaution was needed. The fact that some other precaution was also fallible was not a sufficient reason against adopting it. Both Mr. Bierer and the theatre sister failed in their respective duties, and if either duty had been performed the pack would not have been left behind. There was no reason to divide the responsibility other than equally. Mrs. Urry's pain and suffering had been very great, and there would be a third operation to remove the scar and internal adhesions. There was some hope that physically she would be completely cured. Psychologically there had been terrible damage.

His lordship entered judgment against Mr. Bierer and the nursing-home for Mrs. Urry for £3,000 damages with costs. On a counter claim by the nursing-home for fees judgment was entered for £270 against the plaintiff's husband, Mr. Urry, who was given judgment for £1,146 as agreed special damages. A stay of execution with regard to £2,000 of the damages awarded to Mrs. Urry was granted pending the consideration of an appeal.

The Medical Defence Union instructed Messrs. Hempsons, solicitors, to act for Mr. Bierer and Dr. Odens.

### HOSPITAL BOARD PAYS UP

In 1950 and 1951 a radiologist was employed by the South-west Metropolitan Regional Hospital Board as a part-time locumtenent consultant radiologist at various hospitals. On a number of occasions he was engaged to and did undertake a total of more than nine sessions per week, when he was employed in two or more such locumtenent posts concurrently. When he asked for payment at the rate of 3½ guineas

for each session he was told that under paragraph 7 of the Terms and Conditions of Service of Hospital Medical and Dental Staff (England and Wales) and by virtue of a Ministry of Health circular R.H.B. 49 (115) he was not entitled to be paid for more than nine sessions in any week, however many he had actually performed. As a result the board withheld the sum of £102 18s. from his remuneration. After considerable correspondence the radiologist issued a writ against the board. He has now been informed that the board proposes to pay his claim in full.

The Medical Defence Union instructed Messrs. Hempsons, solicitors, to act for the radiologist.

## Medical Notes in Parliament

### Teething Powders

Dr. BARNET STROSS (Stoke-on-Trent, Central, Lab.) asked the Minister of Health what advice he had received on the association of mercury poisoning in infants, following the ingestion of teething powders or tablets containing mercury, with pink disease; how many infants had died within the last two years from pink disease, and how many from mercurial poisoning; and in how many cases both factors applied. Mr. IAIN MACLEOD, replying on March 14, said he was advised that the degree of association between mercury poisoning and pink disease had not been clearly established. Many cases of pink disease had no demonstrable association with ingestion of mercury, and the great majority of children who had been given mercurial preparations showed no sign of the disease. It seemed possible that some few infants might have an exceptional sensitivity to mercury. In 1952 and 1953, 64 children under 5 years old were certified as dying from pink disease, and 4 from mercury poisoning; in 2 cases both pink disease and mercury poisoning were mentioned in the death certificate.

### Pneumoconiosis Diagnosis

Mr. W. N. WARBEY (Broxtove, Lab.) asked the Minister of Pensions and National Insurance whether he would institute an inquiry into the causes of the wide variation in the proportion of pneumoconiosis claims diagnosed as such by the pneumoconiosis medical panels in the different areas. Mr. OSBERT PEAKE replied on March 14 that he did not think the inquiry suggested would serve any useful purpose. Mr. WARBEY said that the wide variation was causing a good deal of unrest in the mining industry. It was as high as 78% in Scotland and 70% in the West Midlands, and as low as 47% in the East Midlands. Now that the scheme had been working for some years would it not be a good thing to have an inquiry, both into the diagnostic criteria and into the question whether it was really a good thing to have a panel of medical experts functioning as a final appeal tribunal for claims to benefit? Mr. PEAKE said that he could not accept that the proportion of successful claims in different districts showed that there was any wide variation in diagnosis in those districts. Conditions giving rise to the disease, the form of the disease itself, and the awareness of the risk of disease, varied greatly from district to district.

### 1914-18 War Pensioners

Mr. C. J. SIMMONS (Brierley Hill, Lab.) on March 14 asked the Minister of Pensions and National Insurance whether he had considered the opinion expressed in the Report of the Rock Carling Committee that some limbless and other seriously wounded men of the 1914-18 war found their disabilities more burdensome in advancing years, and had now reached a stage deserving of reconsideration; and what action he proposed to take in this matter. Mr. OSBERT PEAKE said that he was always willing to review the case of any war pensioner who applied to have his assessment reconsidered on the ground that his war disablement had grown worse. There were, he also said, 23,000 limbless pensioners, and 356 increases of assessment had been made between the

merger of the Ministries of Pensions and National Insurance in September, 1953, and the end of 1954. There were 144,000 other wounded from the first world war, and 1,000 had been given increases.

**Factory Accidents**

Dr. BARNET STROSS (Stoke-on-Trent, Central, Lab.) asked the Minister of Labour on March 15 whether he had noted the unsatisfactory figures for the number of accidents that occurred among women and girls in factories and establishments supervised by the Inspectorate of Labour; and what steps were being taken to bring the accident rate among these groups to a lower level. Mr. HAROLD WATKINSON, the Parliamentary Secretary, replied that the Chief Inspector of Factories again drew attention to the unsatisfactory trend of these accidents in his last annual report, and urged that industry should devote more thought to means of reducing the number of accidents to female workers. Inspectors of factories paid attention to this problem in their inspections of establishments employing female workers. The National Joint Advisory Council had appointed a subcommittee to make recommendations on the means by which greater freedom from accidents to workpeople generally might be achieved. He would not agree with a submission by Dr. Stross that the inspectorate tended to become grossly weakened year by year in the technical skill of its entrants. It was, he said, a special problem that had been clearly outlined, and there was an expert subcommittee working on it. He agreed with Mr. F. LEE (Newton, Lab.) that more safety committees inside some types of factory would do a great deal to help.

**Vole Vaccine**

Mr. JOHN RANKIN (Glasgow, Tradeston, Lab.) asked the Secretary of State for Scotland on March 15 if he had reached any conclusions as to the effectiveness of vole vaccine in the treatment of tuberculosis, as the result of the inoculations given to the children at Bridge of Weir Home. Mr. J. STUART replied that vole vaccine, like B.C.G. vaccine, was a protection against tuberculosis, not a form of treatment. So far as could be established by testing all those who were vaccinated, the effectiveness of the two vaccines was closely comparable. There had been no cases of tuberculosis in the Homes since vaccination began in 1951.

**Helicopter Ambulance**

Mr. J. GRIMOND (Orkney and Zetland, L.) asked the Secretary of State for Scotland on March 15 if he would arrange for a helicopter to be available in cases of emergency for serious medical cases in the Highlands, especially in islands on which the present air ambulance could not land. Mr. J. STUART said that while he was advised that there were risks in using single-engined helicopters on over-water crossings, he was considering with the First Lord of the Admiralty the extent to which use could be made of naval helicopters in extreme medical emergencies.

**Resettlement in Malaya**

Mr. H. HOPKINSON, Minister of State, Colonial Office, stated in answer to Mrs. LENA JEGER (Holborn and St. Pancras South, Lab.) on March 16, that every resettlement village in Malaya had either a dispensary or a maternal and child health centre. In 1954 medical work in these "New Villages" was provided for by grants of \$2,500,000 to the Governments of the States and Settlements, and \$1,350,000 to the Red Cross, the St. John Ambulance Brigade, and the missions, all of which had since 1952 been making a magnificent contribution under emergency conditions in the rural areas.

*Food and Drugs Act.*—The date of bringing into operation the Food and Drugs Amendment Act has not yet been decided, but the Minister intends to bring it into force as soon as possible.

*Industrial Diseases.*—The Beney Committee appointed to inquire into industrial diseases not covered by the Industrial Injuries Acts is understood to be working on its report.

**INFECTIOUS DISEASES AND VITAL STATISTICS**

Summary for British Isles for week ending March 5 (No. 9) and corresponding week 1954.

Figures of cases are for the countries shown and London administrative county. Figures of deaths and births are for the 160 great towns in England and Wales (London included), London administrative county, the 17 principal towns in Scotland, the 10 principal towns in Northern Ireland, and the 14 principal towns in Eire.

A blank space denotes disease not notifiable or no return available. The table is based on information supplied by the Registrars-General of England and Wales, Scotland, N. Ireland, and Eire, the Ministry of Health and Local Government of N. Ireland, and the Department of Health of Eire.

CASES in Countries and London	1955					1954				
	Eng. & Wales	Lond.	Scot.	N. Ire.	Eire	Eng. & Wales	Lond.	Scot.	N. Ire.	Eire
Diphtheria .. ..	17	1	4	0	1	34	1	7	0	1
Dysentery .. ..	1,265	64	322	17	8	1,007	94	276	12	5
Encephalitis, acute..	5	0	0	0		5	0	0	0	
Enteric fever:										
Typhoid .. ..	3	0	1	0		1	0	0	0	
Paratyphoid ..	5	0	0	1		15	1	1	0	
Food-poisoning ..	111	17		4		194	12		0	
Infective enteritis or diarrhoea under 2 years .. ..				15	16				12	32
Measles* .. ..	26,453	3412	361	605	169	2,449	33	82	19	395
Meningococcal infection .. ..	32	0	12	1	5	27	3	17	0	
Ophthalmia neonatorum .. ..	37	4	6	0		24	0	2	1	
Pneumonia† .. ..	954	72	279	41	8	709	31	254	9	2
Poliomyelitis, acute:										
Paralytic .. ..	11	1		2	0	14	1		4	0
Non-paralytic ..	3	1			1	4	0			
Puerperal fever‡ ..	235	48	6	1		241	39	12	0	
Scarlet fever .. ..	648	19	79	51	31	1,379	51	181	40	33
Tuberculosis:										
Respiratory .. ..	716	70	122	18		740	109	150	21	
Non-respiratory..	96	7	26	3		128	7	23	3	
Whooping-cough ..	1,834	145	167	53	22	2,034	94	385	45	44

DEATHS in Great Towns	1955					1954				
	Eng. & Wales	Lond.	Scot.	N. Ire.	Eire	Eng. & Wales	Lond.	Scot.	N. Ire.	Eire
Diphtheria .. ..	0	0	0	0	0	0	0	0	0	1
Dysentery .. ..	0	0		0		0	0		0	
Encephalitis, acute..		0			0		0			0
Enteric fever .. ..	0	0	0	0		0	0	0	0	
Infective enteritis or diarrhoea under 2 years .. ..	18	1	1	1	0	15	1	1	1	3
Influenza .. ..	70	11	5	3	6	26	1	2	0	0
Measles .. ..		2	0	0	0		0	0	0	0
Meningococcal infection .. ..		0	0				0	0		
Pneumonia .. ..	449	66	53	26	12	323	51	28	10	5
Poliomyelitis, acute	2	0			0	1	0			0
Scarlet fever .. ..		0	1	0	0		0	0	0	0
Tuberculosis:										
Respiratory .. ..	107	19	14	0	6	129	17	18	4	6
Non-respiratory..										
Whooping-cough ..	1	0	0	0	0	3	0	1	0	0
Deaths 0-1 year ..	231	41	39	15	9	275	28	28	5	15
Deaths (excluding stillbirths)	8,032	1139	879	200	285	6,457	868	707	125	201
<b>LIVE BIRTHS</b> ..	8,050	1144	976	208	318	8,009	1181	904	227	399
<b>STILLBIRTHS</b> ..	231	12	18			207	23	26		

\* Measles not notifiable in Scotland, whence returns are approximate.  
† Includes primary and influenzal pneumonia.  
‡ Includes puerperal pyrexia.