

intolerant of pretension not justified by merit or ability. In his early days he often entertained at student and, later, professional functions and was an excellent after-dinner speaker. His great interest in the theatre made him miss but few productions, and he was also a keen golfer, a member of the Glasgow Club and of golf sections of his professional organizations; the occasional prize or cup rewarded his efforts.

The profession in Glasgow is the poorer for his untimely end, and a wide circle of patients, friends, and colleagues will mourn his death and feel deep sympathy with his widow and daughter. Read suffered a great loss by the death some years ago of his son, a medical student who had inherited his father's brilliance.

Many of his friends and colleagues further afield than the boundaries of his home county will learn with deep regret of the sudden death on May 6 of Dr. LEWIS JOHN WATKINS. At the early age of 54 he had established himself not only as an able and considerate doctor but as a pillar of the community in which he lived and worked. A native of Caerphilly, his first service was to his country, and before starting his medical career the first world war saw him on active service in the Middle East. After qualifying at St. Thomas's Hospital in 1924 he devoted his energies and talents to the life of a family doctor, practising at Bristol and Fforestfach before settling down at Pontardawe, Glamorgan, on the outskirts of Swansea. Here he worked for the remaining 15 years of his life. In the second world war he unsparingly served numerous defence organizations; he shouldered also at this time the appointment of medical officer of health, in addition to heavy practice commitments. He was a regular attender at local B.M.A. meetings, and question time invariably found him first on his feet. A natural and fearless speaker, his original humour never failed to enliven the evening. Always a keen participant in sport, he gave time in his later years to fostering and encouraging local clubs. Particularly interested in fishing, he was chairman and founder of the Pontardawe Angling Society. In 1951, when the West Wales Fishery Board came into being, he was appointed a member of it. At the height of his ability his untimely death left a profound grief among his patients and friends. Their many marks of tribute must be no small consolation to his wife. We hope that in her grief she may be sustained by the never forgotten memory of a very human man with many kindly virtues.—W. S. H.

Dr. ANDREW ELGIN HUNTER, well known in Falkirk and the surrounding countryside, died in Falkirk on July 1. He studied medicine at Edinburgh, graduating M.B., Ch.B. in 1901. After spending some time in resident appointments in the Edinburgh Royal Infirmary and the East London Children's Hospital he graduated M.D. in 1905. Shortly afterwards he came to Falkirk, where he worked for the rest of his life. We are indebted to some of his medical colleagues for the following appreciation:

In the passing of Dr. A. E. Hunter, Falkirk loses one of its best-loved personalities. All of his patients and all of his friends will recall with gratitude his skill, his untold acts of kindness, his infinite patience, his courage and self sacrifice, his humour, and his untiring zeal. They will recall with sadness the familiar figure on the motor bicycle in all weathers and at all hours pursuing his unhurried way, bringing help and comfort to his fellows. If a living and enduring monument to his memory be necessary, surely it must be the Infirmary, for he was the genius of the place. From that tentative beginning, 35 years ago, when he undertook to act as visiting physician and surgeon for a trial period of some months in the old building in Thornhill Road, he has watched over its growth and rejoiced in its success. How many of his fellow citizens realize that for almost 30 years all the emergency surgery of the district was

performed by Dr. Hunter? One of the greater glories of his life was the anonymity of much of that noble work. In spite of these heavy calls upon his time and energies he never overlooked the urgent claims of his busy private practice. During these crowded years he was an inspiring teacher to nurse and doctor alike, many of whom have earned distinction in their own lives and all of whom remember with pride and thankfulness his interest and encouragement. In the surgical schools of Glasgow and Edinburgh his reputation was high and his achievement commended. His help as consultant was frequently sought by his colleagues in family practice, and he was never too busy to answer these requests. When their own families were stricken by illness, Dr. Hunter was the valued friend and counsellor. His complete absorption in his duty to his practice and to his infirmary and to his professional brethren left him little time to cultivate outside interests. Only his colleagues were permitted on rare occasions to enjoy his diverse gifts; and his appearances at the Falkirk and District Medical Society were illuminated by grace and wit, choice phrase, and speech above the ordinary range. He measured his life by the golden rule, a deep unswerving loyalty to the ideals of his profession without care for his own reputation or gain, indifferent to popular acclaim or criticism so long as his own exalted conception of duty was fulfilled.

## Medico-Legal

### LAW AND THE UNBORN CHILD

[FROM OUR MEDICO-LEGAL CORRESPONDENT]

On December 6, 1951, in the case of *Woods v. Lancer*<sup>1</sup> the New York Court of Appeals decided that a child which had suffered prenatal injuries as a result of an accident to his mother during pregnancy caused by the negligence of a third party could, after he was born, bring an action for damages for negligence against that third party.

In so deciding by a majority of five to two the Court was deliberately overruling a New York decision given in 1921 to the contrary effect, which had been acted upon ever since. The dissenting judges were of opinion that the claim could not be maintained at Common Law, and that only legislative action could alter the principle which the majority was overruling. They further emphasized the difficulty of tracing causation from prenatal injury to post-natal deformity.

The Common Law of New York and the Common Law of England as administered to-day both spring from the same origin, and their separate development since the War of Independence has produced so few divergences that this decision is of considerable interest in England.

In England there are very few cases which deal with the position of the unborn child at Common Law. The child "*en ventre de sa mère*" is regarded as in being for various purposes connected with the interpretation of wills and the ascertainment of classes of people on whom settled property devolves under the rules of equity as administered in the Chancery Courts. It cannot be the subject of the Common Law felony of murder, and consequently there has had to be created the special statutory crime of child destruction. Under the Fatal Accidents Acts the unborn child is one of the class of "dependants" on whose behalf the executor of someone who has been killed as a result of negligence can bring an action for damages against the negligent person.

But there is no case reported in England—as, up till December 6, 1951, there had been no case reported in New York—in which the unborn child himself had been held to be entitled to recover in his own right against the negligent person. In an Irish case in 1891 it was held that, where a child was injured before birth as a result

<sup>1</sup> *New York Times*, December 7, 1951

of shock to its mother in an accident caused by the negligence of a railway company, and was injured for life, the child after birth could not recover.

The reason why at Common Law in England the unborn child cannot bring an action for damages, and cannot be murdered, is that until birth it is not recognized as having an existence separate from that of its mother. In an action for damages for negligence the plaintiff has to prove that there was a duty to take reasonable care owed to him, that the duty has been broken, and that as a result he has suffered damage. There cannot be a duty at Common Law owed to someone who, in the eye of the Common Law, does not exist.

In the English courts there is little doubt that this problem would be answered in the way in which it was answered by the minority judges in the New York Court of Appeals, and that in England only legislative action can confer upon the unborn child the right recognized by the majority in *Woods v. Lancet*.

## CLAIM AGAINST PHYSIOTHERAPIST DISMISSED

[FROM OUR MEDICO-LEGAL CORRESPONDENT]

A woman patient last year brought an action<sup>1</sup> for £100 damages against a physiotherapist at the Lagan Valley Hospital, Lisburn, and against the Northern Ireland Hospitals Authority. She alleged that she had suffered burns and other injuries as a result of negligent treatment by the physiotherapist, and claimed against the authority as being vicariously responsible for the physiotherapist's alleged negligence.

The patient's arm was treated by the application of rubber pads containing coils. She was warned that if her arm became too warm she was to tell the physiotherapist. Up to 10 or 15 minutes for a first treatment was safe; it depended on the patient saying when the heat became uncomfortable, as there was no visual sign to indicate when that stage was reached. The patient called her after some 10 minutes. The physiotherapist adjusted the machine and soon afterwards removed the pads. The patient noticed blisters on her arm when going to bed that night, and the doctor who treated her said that there would be a permanent scar.

In dismissing the action Judge Johnston said that the onus was on the patient to satisfy him that she had not been properly treated by the physiotherapist, or that the machine was faulty. He did not think she had discharged that onus.

### Comment

If he had found that the physiotherapist had been negligent, the authority, as her employer, would have been vicariously liable for that negligence, on the principles discussed previously in these columns.<sup>2</sup>

<sup>1</sup> *The Northern Whig*, September 25, 1951.

<sup>2</sup> *British Medical Journal*, March 3, 1951, p. 480.

## Medical Notes in Parliament

### HYPNOTISM BILL

LORD HADEN GUEST on July 10 moved in the House of Lords the second reading of the Hypnotism Bill. He said that the hypnotizing of young people for purposes of entertainment was forbidden entirely by the Bill. The Bill contained nothing to prevent the use of hypnotism for scientific or research purposes. Lord Haden Guest said that hypnotism should only be undertaken by people who knew how to remove the suggestions made during the hypnotic condition.

LORD WEBB-JOHNSON said the Bill was most desirable, and he hoped it would soon be on the Statute Book.

LORD READING, replying for the Government, said he saw no objection to the Bill in its present form. The precautionary steps laid down in the Bill seemed desirable. The Bill was read the second time.

### Fluorine in Water

MR. IAIN MACLEOD reported on July 9 that the members of the mission which had visited the United States of America to examine American investigations into fluorine in water were Miss Jean Forrest, dental officer, Ministry of Health; Dr. J. Longwell, Government Chemist's Department; Professor H. H. Stones, Dental Research Committee, Medical Research Council; and Dr. Allan Macbeth Thompson, Nutrition Research Team, Department of Midwifery, University of Aberdeen. The question of publication would be considered when he had received the mission's report.

### Prescription Charges Again

MR. MICHAEL STEWART raised on July 11 problems arising out of the administration of the regulations dealing with charges on prescriptions under the National Health Service. He asked whether the prescription charges seemed to be causing a reduction in the number of prescriptions.

MISS P. HORNSBY-SMITH said there was exemption in the out-patient departments for people who could produce a war pensions book or a National Assistance Board book, and whose card or prescription was stamped "exempted." Three large hospitals in congested areas, the London Hospital, the Hammersmith Hospital, and the Royal Free Hospital, had given information to the Ministry of Health. Up to July 10 the London Hospital had no case of a patient in the out-patient department being unable to pay 1s. In the Hammersmith Hospital there had been one, and the hospital paid from the Samaritan Fund. In the Royal Free Hospital there had not been a single case. A recent check had shown that only 16 out of 23,000 prescriptions cost the National Health Service under a shilling. These all cost 11d. or more, so the "cheating" of the patients was infinitesimal. Obviously a patient who wanted only a bandage would pay across the counter for it. There had been a small increase in quantities prescribed, but she would not say that this was permanent. People chronically sick were usually in-patients and got medicine free. So far as the Ministry had been able to assess there had been under 15% falling off in prescriptions. Miss Hornsby-Smith added that Mr. Macleod was ready to investigate the circumstances of any hospital management committee which found that the difficulties arose which Mr. Stewart had suggested.

The discussion then closed.

## Universities and Colleges

### UNIVERSITY OF OXFORD

On June 26 the degree of D.M. was conferred on R. H. Cowdell and H. J. F. Cairns (in absence).

### UNIVERSITY OF CAMBRIDGE

The following candidates have been approved at the examination indicated:

FINAL M.B.—Old Regulations: *Part I, Surgery, Midwifery, and Gynaecology*: I. S. Lister, I. A. Stewart, A. E. Wagstaff. *New Regulations: Part II, Principles and Practice of Physic, Surgery, Midwifery, and Gynaecology*: <sup>1</sup>C. W. M. Adams, <sup>1</sup>D. M. E. Allan, <sup>1,2</sup>P. G. Allen, <sup>1</sup>J. D. C. Anderson, <sup>1,2</sup>N. W. Ashworth, <sup>3</sup>M. A. Baddoo, <sup>1,2</sup>L. P. Balfour-Lynn, <sup>1</sup>P. A. J. Ball, <sup>1,2</sup>R. Baxter, <sup>1</sup>A. W. Beard, <sup>1,2</sup>D. W. K. Bird, <sup>1,2</sup>M. H. H. Bishop, <sup>1,2</sup>Mrs. N. L. Blackwell, <sup>1</sup>G. M. P. Boyes, <sup>1</sup>M. J. Boyle, <sup>1,2</sup>J. E. Brett, <sup>1,2</sup>H. G. Britton, <sup>1</sup>B. W. Broadhurst, <sup>1</sup>D. Bryant, <sup>3</sup>G. M. B. Bulman, <sup>1</sup>N. V. D. Bunker, <sup>1</sup>N. P. Burns, <sup>1</sup>D. A. P. Burton, <sup>1,2</sup>T. F. Bushby, <sup>1</sup>A. R. Butterfield, <sup>1,2</sup>G. R. C. Champion, <sup>1,2</sup>S. M. Cannicott, <sup>1</sup>H. Caplan, <sup>1</sup>J. B. Chapman, <sup>1</sup>H. S. Chen, <sup>1,2</sup>B. Chester, <sup>1</sup>W. J. Colbeck, <sup>1,2</sup>R. R. A. Coles, <sup>1</sup>C. E. T. Cones, <sup>1,2</sup>A. S. Cooper, <sup>1,2</sup>B. R. Corbin,