

A Fatal Herniotomy and the Medical
Libel Case of 1886:
Dr Nedwill's Pursuit of Dr McBean Stewart

Geoffrey W. Rice

Emeritus Professor of History

University of Canterbury

HAWTHORNE PRESS

with

THE COTTER MEDICAL HISTORY TRUST

2021

Published by HAWTHORNE PRESS

73 Halton Street

Christchurch 8052

NEW ZEALAND

with

THE COTTER MEDICAL HISTORY TRUST

P. O. Box 2301

Christchurch

First published 2021

Copyright © Geoffrey W. Rice

The moral rights of the author have been asserted.

ISBN 978-0-473-59377-3

This book is copyright. Except for the purpose of fair review, no part may be stored or transmitted in any form or by any means without permission in writing from the publisher.

INTRODUCTION

This is a further contribution to a larger project aimed at recovering the lives and careers of medical men in nineteenth century Christchurch, New Zealand. As may be seen from the following list, subjects covered so far include chemists and druggists, surgery, public and private hygiene, the hospital inquiry of 1880, and several court cases involving Christchurch doctors. The aim is to compile a biographical dictionary of the Christchurch medical men of 1850 to 1900 and a series of book-length biographies of the major figures.

This present offering comprises two chapters from a forthcoming biography of Dr Courtney Nedwill (1837-1920), Christchurch's outstanding public health officer of the nineteenth century. A biography of Nedwill's predecessor in the role of Medical Officer of Health, his friend Dr Llewellyn Powell (1843-79), was published last year. Nedwill carried on Powell's pioneering work in banning cesspits and inspecting 'nuisances' in the city, while the Christchurch Drainage Board built New Zealand's first system of deep sewers between 1879 and 1882.

As medical officer to the Christchurch Board of Health from 1879 until the board's demise in 1885, Nedwill's zeal often brought him into conflict with a set of older doctors who were reluctant to abandon the miasmatic theories in which they had been trained. Pasteur's revolutionary work on bacteria in the 1860s had revealed 'germs' as the causative agents of infectious diseases, but some older doctors were slow to be convinced. Nedwill himself still wrote in terms of miasmas and bad smells in his early reports, but he had firmly grasped the basic principles of infection and public health along with the necessity for reporting cases and inspecting premises. Between them, Powell and Nedwill succeeded in halving Christchurch's appalling death rates from typhoid and diphtheria between 1875 and 1887.

When he noticed in 1880 that cases admitted as typhoid to the Christchurch Hospital were being registered as deaths caused by gastro-enteritis, to avoid further inspection of premises, he called for a Royal Commission of Inquiry, which upheld his complaint and reprimanded the hospital authorities. His lobbying of the government led to a set of new regulations for the inspection of dairies supplying milk to the public, though these were later often ignored.

Nedwill was also a leading surgeon in Christchurch, and while he could not claim any striking 'firsts' to compare with Dr Henry Prins's first lithotomy and craniotomy in Christchurch, he was a careful and successful surgeon with a good survival rate. He was therefore outraged when an overconfident newcomer, Dr Francis McBean Stewart, attempted a radical cure of hernia in 1884, without any consultation with the other hospital surgeons and without any previous experience of hernia surgery. Nedwill observed the operation and made several suggestions to prevent haemorrhage, which Stewart ignored. When the patient died, Nedwill called for an official inquiry. This booklet tells the story of that inquiry and the subsequent medical libel case.

My thanks are due to Dr Claire Le Couteur and Paddy Cotter of The Cotter Medical History Trust for their support and assistance in publishing this work.

SHORTER PUBLICATIONS IN THIS SERIES

Chemists and Druggists in Early Christchurch and Lyttelton, 1850s to 1880s.

(Christchurch, Hawthorne Press & The Cotter Medical History Trust, 2020), 22 pp. ISBN 978-0-473-54460-7

Surgery in Nineteenth Century Christchurch, New Zealand, 1850-1900 (Christchurch, Hawthorne Press & The Cotter Medical History Trust, 2020), 38 pp. ISBN 978-0-473-54453-9

The Christchurch Trials and Tribulations of Dr Adam Mickle, 1890-91 (Christchurch, Hawthorne Press, 2020), 15 pp. ISBN 978-0-473-54646-5

Christchurch's Curious Cockey Case of 1899: Dr Arthur De Renzi's surgery on Mrs Sarah Walmsley (Christchurch, Hawthorne Press, 2020), 25 pp. ISBN 978-0-473-55186-5

The Notorious Dr Russell of Tristram House: an American Creole abortionist in Christchurch, New Zealand, 1880-1915, (Christchurch, Hawthorne Press, 2020), 67 pp. ISBN 978-0-473-55046-2

Gastro-enteritis or Typhoid? The Christchurch Hospital Inquiry of 1880 (Christchurch, Hawthorne Press & The Cotter Medical History Trust, 2021), 31 pp. ISBN 978-0-473-57211-2

The Unfortunate Dr Campbell of Lyttelton and Christchurch: the Life of Donald Campbell, LM, LRCS, LRCP (1844-81) and his Tragic End (Christchurch, Hawthorne Press & The Cotter Medical History Trust, 2021), 63 pp. ISBN 978-0-473-57321-8

Clean and Decent in Christchurch, New Zealand: Personal and Public Hygiene, 1850-1900 (Christchurch, Hawthorne Press & The Cotter Medical History Trust, 2021), 77 pp. ISBN 978-0-473-57806-0



Dr Francis McBean Stewart (1838-1906)



Dr Courtney Nedwill (1837-1920)

Both photos: The Cotter Medical History Museum, Christchurch

A Fatal Herniotomy and the Medical Libel Case of 1886:

Dr Nedwill's Pursuit of Dr McBean Stewart

In this short study we shall be dealing with a surgical operation by Dr Francis McBean Stewart at Christchurch Hospital in December 1884 which resulted in the death of a patient. Dr Courtney Nedwill was the other honorary visiting surgeon at Christchurch Hospital, alongside Stewart. He had observed the operation, which was done in breach of the hospital's Rule 6 about prior consultation. He was so concerned about the method followed and what he saw as Stewart's incompetence that he resigned and called for an official inquiry. This would be the third such inquiry Nedwill had initiated at Christchurch Hospital, which did little to endear him to the medical staff or the board. The hospital board held an inquiry, but refused to allow Nedwill to give his own description of what happened. Stewart was exonerated and Nedwill's reputation as a surgeon was left in doubt after snide comments by Drs Stewart and Turnbull. This unsatisfactory outcome would lead to an inflammatory newspaper article which prompted Stewart to sue the proprietors for libel. In the court case that followed much more detail was revealed, and Nedwill's complaint was seen to be fully justified. Though the jury agreed that a libel had been committed, they awarded Stewart just one shilling in damages. He had claimed £2,000.

The operation performed by Dr Stewart was an inguinal herniotomy. An inguinal hernia is a swelling in the lower abdomen or groin caused by a weakness or tear in the muscle wall which allows the intestines to protrude. This condition was much more common in past centuries than it is today. Men lifting heavy loads, or women in childbirth, could suddenly produce a hernia, caused by heavy pressure on the lower abdomen. A small hernia could be relieved by pressure, pushing the intestines back within the muscle wall. This was known as a reducible hernia. But once a weakness was established the hernia could recur. If the bulge reappeared every time it was pushed in, this was known as an irreducible hernia. Hernias were much more common in men than in women, because more men were in occupations that involved heavy lifting, such as coal mining, quarrying, stevedoring, labouring, ditch-digging and the like. Sailors in the age of sail were especially prone to hernias, from hauling on ropes or pushing at the capstan. While a hernia was commonly known as a 'rupture', sailors had a more graphic description: 'bursten belly'.¹

The easiest remedy for a hernia was to wear a truss, a leather padded belt that applied pressure to the weak spot and held the bulge in place. This worked best for a simple groin hernia, but was less effective for femoral or inguinal hernias, which appeared lower in the groin, close to the testicles. A man with a hernia could usually perform 'light duties', but always ran the risk of a larger swelling which could prevent him from working at all. If the protruding intestine became twisted into a strangulated hernia, there was a serious risk of death from gangrene. A strangulated hernia was painful and always regarded as an urgent case. Because the intestine was blocked, vomiting and pain ensued. Surgery was needed to return the intestinal loop to the abdomen, and if the sac containing the intestines had torn, it would need stitching, along with the pillars of the muscle wall. In the days before antiseptic surgery, this was always a hazardous procedure, and very few patients survived surgery for a strangulated hernia because of the high risk of infection in the wound. If an unskilled surgeon nicked the intestine, or any of the blood vessels that crowded thickly in the lower abdomen, death was almost inevitable.

Herniotomy was therefore a rare surgical procedure before the nineteenth century. Trusses and poultices were the preferred treatments. Surgery was regarded as a last resort, usually demanded by the patient who was desperate for relief: 'recurrence was frequent and mortality was high'.² In 1857 Dr John Wood of London reported a successful procedure using subcutaneous sutures to close the opening once the intestine had been returned to the abdomen. He claimed a 70% success rate (though other surgeons found that only one in four survived) and Wood's method became the standard surgical treatment for strangulated hernia.³

The advent of Listerian antiseptic surgery in the 1860s made abdominal surgery far safer than before, though still not without high risk. Chloroform anaesthetic also made the patient lie still during the procedure: previously the pain had made patients kick and scream, which made suturing somewhat difficult. In 1869 Joseph Lister reported a successful operation to reduce a strangulated hernia using catgut sutures. He made a large incision on the bulging hernia and drained 'a considerable amount' of serous fluid from the sac, before washing the intestine in a 1:40 carbolic solution and pushing it back into the abdomen. Repair was effected by cutting the conjoin tendon and securing the edges of the sac with sutures. A large piece of omentum [the fatty 'apron' covering the intestinal sac] had come down with the intestine, and part of it looked black and gangrenous. This was excised, and the healthy part returned. Once closed, the wound was covered by Lister's favourite carbolic poultice. The wound oozed some serous fluid a few days later, but then the wound healed and the patient was able to walk after about two weeks.⁴

Given this success, new ideas for herniotomy emerged rapidly. Dr Steel operated successfully at the Bristol Infirmary in 1873, and in 1876 the prominent surgeon and Professor of Surgery at Edinburgh, Thomas Annandale, reported an ingenious operation to reduce two large hernias on the same side, one inguinal and the other femoral (one the size of an orange) by securing the ligatured inguinal sac in the femoral canal, making

a pad which prevented the femoral hernia from descending. The patient healed, but still had to wear a truss.⁵

Annandale reported further successful operations in 1880, by which time he claimed over seventy such operations with only eight deaths. W. Mitchel Banks reported similarly successful procedures from Liverpool in 1882, and C. B. Ball gave details of his technique of twisting the sac in the *British Medical Journal* in 1884.⁶

Such was the state of British surgery when Dr McBean Stewart attempted his first radical cure for hernia at Christchurch Hospital in December 1884. By then Annandale had made three more refinements to his original procedure. Professor W. Macewen's 1886 method (later much copied in America) still lay in the future.⁷ Wood's method was still preferred by most surgeons, and in Christchurch Nedwill had performed six hernia repairs with three deaths. Surgeons liked to report a high success rate, but many risks remained. Much depended on the patient's general state of health, the size of the hernia, the antiseptic precautions in the operating theatre and the after-care of changing dressings and fitting trusses. Some patients who insisted on returning to occupations involving heavy lifting suffered worse hernias than before surgery.

Dr Courtney Nedwill was born at Ballyronan in Northern Ireland in 1837. He studied chemistry and science at Queen's College, Belfast, one of the three colleges of the University of Ireland, before embarking on a medical degree. He was awarded a Senior Scholarship and the Malcolm Exhibition, the top prize for medical students at Queen's. He graduated MD in 1860 and qualified MRCS (England) and LM in the same year. He applied for a post at the new Chatham Army Medical School and was placed fourth on the list of 60 applicants. After two years training army surgeons he was invalided out following a severe bout of pleuro-pneumonia. In 1862 he signed on as surgeon-superintendent of the immigrant ship *Chariot of Fame* and arrived in Lyttelton on 30 January 1863. Though he had glowing references, his application for the post of surgeon at the newly-built Christchurch Hospital was unsuccessful: the governors voted for an established surgeon, Henry Horsford Prins, who was MRCS but had no degree. Nedwill served with the Volunteers and struggled to make a living from general practice in a town with too many doctors. In 1871 Nedwill and Dr John Frankish were asked to perform a third autopsy on a stabbing victim, and found that Prins had conducted the first autopsy carelessly. Prins was outraged and refused to let them near the hospital for months. Yet within a few years, he had resigned and Nedwill and Frankish were appointed to the hospital staff. Nedwill later left the hospital and was appointed medical officer to the Christchurch Board of Health in 1879. Prins and his friend Dr James Somerville Turnbull then controlled the board and the staff. In 1880 Nedwill called for a Royal Commission, which found that hospital staff had been concealing typhoid deaths as gastro-enteritis, and Prins and Turnbull never forgave him for this. Nedwill was a zealous and energetic health officer, but Prins and Turnbull frustrated his efforts to get doctors to notify typhoid cases.

Francis McBean Stewart was born in Dundee in 1838. He completed his LRCP and LRCS qualifications at Edinburgh, and was registered as a medical practitioner on the UK Register in 1865.⁸ He never completed the MD degree. He went to Inverness and was appointed medical officer of health, inspector of shipping, surgeon of the Inverness dispensary and medical officer of the 2nd Battalion Cameron Highlanders. Sometime in the late 1860s he sailed north as medical officer of the new steam whaler *Narwhal*. Unfortunately he suffered frostbite which left him lame.⁹ In 1873 he came out to New Zealand as ship's surgeon on the *City of Dunedin* and practiced at Milton for two years before moving to Ashburton, where he was active in the Caledonian Society and served as chairman of the Ashburton School committee.¹⁰ During his time in Ashburton the school roll doubled then trebled in size to 300 pupils. As chairman of the school committee he wanted rid of a new headmaster after an adverse inspector's report and allegedly 'browbeat' the committee to get his way. The *Ashburton Guardian* chided him for being 'dictatorial'. In 1880 he was accused of neglect in his treatment of a man who had badly injured his leg with an axe, but Dr Trevor testified that Stewart had done all that he could before gangrene set in and the man died.¹¹ However, Fulton described Stewart as 'genial, good-natured' and 'an excellent surgeon'.¹² Others described him as 'tall, handsome and impressive' but also somewhat aloof and taciturn.¹³ He was a man of few words and gave the impression of being supremely self-confident.

On his departure from Ashburton in 1881 he was presented with a testimonial signed by sixty gentlemen at a Scottish banquet, complete with haggis and piper. In Christchurch from 1882 he partnered with Dr Edward Ellis and joined the new Canterbury Caledonian Society, being elected a vice president at the first AGM in April 1882.¹⁴ He was appointed medical officer to the Female Refuge and the Loyal Phillipstown Lodge, as well as visiting surgeon at Christchurch Hospital. In 1883 he performed the first ovariectomy in Canterbury, operating on a woman with a large ovarian tumour.¹⁵ Also in 1883, Stewart presented the haggis at the Caledonian Society's banquet, and in December 1884 he wagered £5 that this year's haggis would prove inferior to his one. He even instructed a newspaper reporter to print this detail.¹⁶

Three days later he operated on a man named William Strickland for inguinal hernia.

What follows is a factual reconstruction of Stewart's hernia operation based on the testimony of witnesses at the hospital inquiry.

Strickland was admitted to Christchurch Hospital on 6 December 1884 with a large and irreducible inguinal hernia. According to the later testimony of Richard Brown, the chief wardsman and dresser, Strickland was a butcher by trade, 'a good strong man', though rather stout. He had been a wardsman at Sydney Hospital, and had been treated at

Timaru Hospital for fifteen months for his worsening hernia. According to Brown, he 'seemed to know a great deal about it'. He had come to Christchurch for an operation as a last resort. He told Brown that if he could not get an operation he would 'make a hole in the river', that is, commit suicide.

The house surgeon, Dr Rawdon Briggs Robinson, asked him if he used a truss, but Strickland said he had tried that but it gave him no relief. He was then examined by Stewart, who 'cautioned him about the gravity of the operation'. Strickland insisted that he wanted a cure: 'I must run all risk'. Stewart put him into Ward 6 and he was prepared for surgery on a low diet for two weeks with no alcohol. Catgut ligatures were prepared by soaking in carbolic solution.

Rule 6 of the hospital required a consultation with all of the surgical staff before any major operation, but Stewart ignored this rule. Instead he consulted his friends Prins and Turnbull, members of the hospital board. Turnbull would have welcomed Stewart's arrival as a fellow Scot, and Prins would have welcomed Stewart as a fellow surgeon, since he was not on speaking terms with Nedwill, who had embarrassed Prins with the hospital inquiries of 1871 and 1880. Prins later testified that he had encouraged Stewart to operate on Strickland, using the method described by Professor Annandale.

On 19 December Brown served cards on each of the medical staff, informing them that Stewart would be operating at 11 am that day. The operation was witnessed by Drs Robinson (who administered the chloroform), Mickle (who assisted), Nedwill (who observed), Hunt and Patrick. Brown and the nurse of Ward 6, Miss Medlam, were also present. Hunt and Nedwill were called away to see another patient while the chloroform was being administered, and returned to find that Mickle had donned the assistant's apron. He offered it to Nedwill, who would normally assist as the senior visiting surgeon, but Nedwill indicated that he should carry on.

Brown as dresser passed the sponges and instruments as usual. A Listerian carbolic steam spray had disinfected the room for half an hour before the operation. The instruments were also soaked in carbolic solution. Mickle and Patrick later testified that Stewart had seemed perfectly calm throughout the operation.

There were 'several sharp haemorrhages' as the operation proceeded, and Stewart applied artery forceps to stop the bleeding while Mickle ligatured the cut blood vessels. When Stewart cut into the sac he had to empty a certain amount of serous fluid. At the same time a large amount of intestines spilled through the opening, with more bleeding. Stewart had some difficulty returning the coils of intestine, and only succeeded after two attempts. While removing several adhesions, Stewart pulled up a tangle of veins

around the spermatic cord and attempted to separate them with his fingers. This further opened the sac, and more bleeding occurred.

Nedwill suggested a clamp to arrest the bleeding, but Stewart ignored him and said nothing. He used artery forceps to grasp the stump of the sac, but these were too small. He then paused, apparently uncertain what to do next, and Nedwill suggested using a tenaculum [pointed angled forceps] to secure the stump to the external wound. Again, Stewart ignored him and called for a suture to start stitching the sac. A portion of omentum had come down with the intestines, and Stewart excised this along with the neck of the sac. At this point Nedwill washed his hands and left the room, and the hospital. Stewart continued the operation, suturing the pillars of the torn muscle wall together and closing the external wound. Hunt and Patrick later testified that they did not expect the patient to survive.

Strickland was returned to Ward 6 where his dressings were changed by Robinson and Brown. They later insisted that there was no haemorrhage of blood, only oozing of serous fluid, but a patient in the next bed said he had seen blood on the sheets. Brown saw Strickland several times on 21 December and noticed continued discharge from the dressings, but said he saw no fresh bleeding. After dinner he sat beside the bed and talked to Strickland, who seemed exhausted. During the night Strickland 'sank' and died at 7 am on 22 December.

Stewart conducted his own post mortem examination at the unusually early hour of 7 am next morning and found that one of his ligatures had slipped, causing internal bleeding. Strickland's scrotum was swollen and dark with blood. Robinson entered the death in the hospital records as 'Haemorrhage after operation for hernia'. The official death certificate simply says 'Hernia haemorrhage'.¹⁷

On 20 December Nedwill wrote to the chairman of the hospital board, Henry Thomson, his old adversary in the 1880 typhoid inquiry. Thomson was a former mayor of Christchurch, a jeweller and prominent Mason, who had defended commercial interests against the public health demands of Nedwill as medical officer of health. Nedwill informed Thomson that Stewart had performed 'a very grave operation' without any prior consultation, as required by Rule 6. He asked Thomson to call a meeting of the medical staff as soon as possible.

No meeting was called. Nedwill wrote again on 22 December, having heard that Strickland was 'fast sinking'. He asked Dr Deamer, chairman of the medical staff, to instruct the house surgeon not to hold any post mortem before the staff met. Deamer called a meeting on 23 December, after Strickland had died. At this meeting Nedwill moved that the matter be referred to the hospital board, but nobody was willing to

second his motion. His colleagues had closed ranks against him in defence of the medical profession and their personal reputations. Next day, on 24 December, Nedwill wrote to the board tendering his resignation as visiting surgeon:

I cannot, therefore, consent to incur any further responsibility in a public institution whose staff attaches so little importance to Hospital rules, and shrinks from having its deeds publicly and fearlessly investigated.

Christmas intervened, and the hospital board did not meet until 31 December. Apart from Thomson, Prins and Turnbull, the board comprised the mayors of Christchurch, Lyttelton and Sydenham (namely Charles Hulbert, Adam Chalmers and William White jnr), the Hon E. C. J. Stevens, former mayor Charles Ick and the auctioneer James G. Hawkes. Stevens was a prominent Canterbury politician and the business partner of Nedwill's friend Richard Harman. He at once identified the two issues in Nedwill's letter: that a hospital rule had been broken, and the medical staff had declined to support Nedwill's protest about this.

Prins and Turnbull moved that the board go into committee, provoking heated debate about secrecy and openness. Their motion was finally defeated six votes to three. Hulbert thought that Nedwill's resignation should not be accepted until he had been given an opportunity to prove his charges. Stevens hoped that the board would recommend an inquiry, as 'he did not think the matter would stop there'.

Turnbull disagreed and said there was no need for an inquiry: it was 'a purely medical question' and the medical staff was the proper body to decide the matter. They were agreed that the operation 'had been properly performed', even though the patient had died. Hawkes observed that if they did not accept Nedwill's resignation the staff would feel insulted. Hulbert dissented, but a majority agreed to accept Nedwill's resignation.

Prins declared that while he was on the hospital staff, Rule 6 was never broken: no major operation took place without consultation. Turnbull, however, said that there was no charge in Nedwill's letter to answer. Stevens and Hulbert strongly disagreed: the patient had died, and the board had a duty to the public and the government to ensure that rules were observed. The staff was not the appropriate body to enquire into the matter: it was the board's responsibility. Stevens remarked that the board 'should not smother the thing up by refusing to consider the matter', and White agreed that the board should hold an inquiry. Turnbull then said that Nedwill had been 'the sole assistant at the operation, and therefore he had condoned everything that might have taken place'. [This was simply not true: Mickle had assisted, and Nedwill had merely been a spectator.] Hulbert reminded the board that a rule had been broken and a man had died. This was a 'very grave' matter, and the public would not be satisfied if the staff

investigated themselves. The board then passed White's motion to hold an inquiry by five votes to three, and agreed to ask Nedwill to carry on until his successor was appointed.¹⁸

Editorial opinion on 2 January supported Stevens and Hulbert in demanding a board inquiry. The *Lyttelton Times* added that publicity was the right thing: 'Nobody who does his work well is afraid to let daylight shine upon it'.¹⁹ The hospital medical staff had a meeting with Prins and Turnbull and accepted that they could not hold an inquiry as Nedwill's letter had been addressed to the board.²⁰

At the next meeting of the hospital board on 9 January a letter from Nedwill was read objecting to any further inquiry by the hospital staff involving Prins and Turnbull. He asked the board to hold its own independent inquiry. He added that Turnbull had 'grossly misrepresented' him by saying he had assisted at the operation, 'while it [was] well known that Mr Prins [had] always acted most unfriendly towards me in the performance of my public duties'. Turnbull responded angrily to this and accused Nedwill of 'increased antagonism' towards himself, Prins and the medical staff. He moved for a government inquiry by Dr George Grabham, the government's inspector of hospitals and lunatic asylums. But Hulbert and Stevens saw no need for this, as the board had access to medical advice and there were no issues that could not be decided by laymen. Prins and Turnbull said that this put them in 'a very unpleasant position'. Turnbull's motion was lost, and a resolution to hold a board inquiry was carried. Turnbull assured the board that he would act impartially: Prins said nothing.²¹

Despite Turnbull's assurance, Nedwill knew that he did not face an impartial board. Thomson and White had previously been his bitter opponents over the 1880 inquiry, and with Prins and Turnbull on the board and likely to sway Ick and Hawkes, his enemies could easily command a majority.

The 1885 Christchurch Hospital Inquiry opened on the evening of 13 January in the city council chambers.²² Henry Thomson chaired the inquiry. According to the *Press* there was 'a goodly attendance of the public and of the medical profession'.²³ Witnesses were asked to swear an oath on the Bible that they would tell the truth, as if they were in a courtroom. Prins was seen to whisper to Dr Bakewell, who then went across and spoke to Nedwill. As soon as Thomson declared the inquiry open, Nedwill stood and said that Bakewell had just told him that Prins had asked if anyone had the courage to ask Nedwill to apologise and retire from the inquiry. Prins explained that he thought it better 'for the sake of the profession' that Nedwill should drop the matter 'and not drag the profession through the mire'.

Nedwill said he felt intimidated by Prins's request. He asked where he stood in the inquiry. He had asked the board to enquire into the truth or otherwise of the statements in his letter, 'and not place him in the position of prosecutor'. Nedwill said he would lead evidence to show that there had been no consultation, in breach of Rule 6, and would call the house surgeon and all of the medical staff to verify this fact.

Turnbull said it was admitted that there was no consultation, but he wanted to see a list of Nedwill's other charges. They only had a long letter 'from which they had to dig out the charges'. [There had been much gossip and rumour that Stewart had bungled the operation.] Nedwill replied that his letter was very explicit. Thomson then asked Nedwill to sign a printed copy of his letter as his formal charge, and Nedwill did so.

Nedwill asked if he was right in considering that the breach of Rule 6 had been admitted. Turnbull said no, it had not, thus contradicting himself. He then proceeded to quiz Nedwill about whether he had ever declined to attend a consultation called by Stewart. Nedwill explained that the usual procedure was for a card to be sent telling staff that a consultation was to be held. Nedwill said he was not aware of ever having declined such an invitation. He had never done a major operation without consultation. Emergency cases, such as amputation or strangulated hernia, had to be dealt with at once and there was no time to hold a consultation.

Nedwill then appealed to the chairman, saying that he felt as if a trap was being laid for him by Turnbull's questions. Stevens asked if he had received a consultation card before Strickland's operation, and Nedwill replied firmly that he had not, and nor had anyone else to the best of his knowledge: 'Had I been consulted in the usual way I would not have consented to the operation being performed'. His main objection was to the method adopted by Stewart for this procedure. Nedwill said that the radical cure for hernia had become popular but had recently been abandoned, not only because so many patients died but because the result was often uncertain: 'Some surgeons had revived them, but they were held to be on trial'.

[Nedwill probably had Annandale in mind when he said this, or the recent reports by Banks and Ball. Nedwill was a cautious surgeon, and followed *The Lancet* closely, where doubts had been expressed about Annandale's method. He would have seen the article by Professor Edward Lawrie, 'Three cases of Listerian operation for the radical cure of inguinal hernia' in *The Lancet*, 121 (1883), pp.815-6.]

In his opinion the operation was not one of urgency; it had been requested by the patient. As far as he knew, the radical cure for hernia had not been performed before in Christchurch. He attended the operation. The man was already on the operating table. On the card it said 'radical cure of hernia'. He did not ask Stewart about the case, nor

did Stewart volunteer any information. Dr Mickle assisted Stewart. Nedwill merely held a piece of silver wire to assist Mickle. He did not use any instrument, and never touched a sponge.

Nedwill said he had read about the radical cure for hernia, but had never seen it performed. He had operated on strangulated hernias before, using Wood's method, but only in cases of emergency. His last such patient was still alive. He always kept up his *Lancet* reading 'very carefully'. He had not read Annandale's work, but was familiar with Wood's method. He had expected Stewart to follow Wood's method, but he did not:

When the operation had proceeded some way he saw that the stomach [sac] had not been secured, and he advised Stewart how it should be done. He considered that this was not properly done, and suggested that it should be clamped into the external wound. The advice he had given was to prevent haemorrhage, but it was not carried out. He left the room when the operation was practically finished. He did not say anything for or against the operation.

Stevens asked if this operation was done frequently, and Nedwill replied that it was not. He quoted from Holmes and Hunt, *System of Surgery* (1860), which said that the radical cure for hernia had been abandoned as one of 'great risk'.

Turnbull then questioned Nedwill about his assisting Stewart. Nedwill said that he had never offered to assist Stewart, and did not regard himself as Stewart's assistant. He was a senior member of staff and not the assistant to any surgeon. Stewart had not discussed the operation with him. Nedwill thought that the method adopted by Stewart 'greatly increased the risk'. If Wood's method had been followed the peritoneum would not have been opened, nor would the operator have seen the sac. He quoted again from Holmes and Hunt, to show the various methods for radical cure of hernia. It was regarded as a last resort and was 'anything but certain in its result'.

Prins now suggested that Nedwill's presence at the operation showed that he condoned what had been done. Nedwill firmly denied this, and said that according to his knowledge of hospital etiquette his presence as a colleague did not constitute approval of or acquiescence in the method followed. Prins then accused Nedwill of operating on a patient named Hillier without consultation. Nedwill recalled the case, and said it was an urgent strangulated hernia, and Stewart had discussed it with him, but was then called away to another patient and left it to Nedwill 'to do as he liked'. Nedwill insisted that he had never performed a major operation without consultation.

Stewart questioned Nedwill about the tissue cut away during the operation, and Nedwill replied that there was 'a large piece of omentum tied'. Stewart retorted: 'Then it is quite clear that you do not know the difference between the omentum and the sac'.

Taken aback by this accusation of anatomical ignorance, Nedwill returned to the main point of the inquiry and asked Stewart directly if he had held a consultation before this operation. Stewart admitted that he had not.

Nedwill then called Dr Hunt, but he did not answer, and was not present. Nedwill then called Dr Patrick, who at first said he had a strong objection to answering any questions, but the chairman insisted and he took the oath.

Patrick confirmed that Stewart never said what method he was going to use. He heard someone ask if it was a reducible hernia, and heard Stewart reply that it was. However, afterwards, Stewart said it was an irreducible hernia, so Patrick assumed he had misheard him the first time. In answer to Nedwill's questions, Patrick was not sure that the omentum was adhered to the sac. He saw a large coil of tissue cut away, but he did not know what was in it. He would not call himself a skilled anatomist, though he had recently completed a course of anatomical study. He could not say if it was a grave operation. He heard Nedwill make certain suggestions during the operation, but these were ignored by Stewart.

Stewart then asked Patrick if he knew the difference between omentum and peritoneum, but Patrick declined to answer, saying that after the opening of the sac he could not follow all the steps of the operation. Nedwill then read from *The Lancet* the essential steps to be taken for the radical cure of hernia, and its warning that the operation was risky. Patrick said he dissented from this dictum.

Nedwill's next witness was Dr Mickle. Dr Adam Frederick John Mickle (1847-1935) was probably the most highly-qualified of the Christchurch surgeons, and had been superintendent of Christchurch Hospital 1880-81. He had studied under Lister at Edinburgh, where he gained his LRCS and LRCP qualifications before moving to Aberdeen for his MB and MC degrees. He then returned to Edinburgh for his MD in 1880 and was admitted FRCS (Ed). He was one of only two of Lister's students in Christchurch, and one of 18 in New Zealand.²⁴

Mickle stated that he had not been consulted beforehand by Stewart, nor had Stewart explained what method he was going to follow. He thought like Patrick that Stewart had said it was a reducible hernia, but he could be mistaken about this. At the later staff meeting Stewart had said it was an irreducible hernia. Mickle had never seen this operation done before. He remembered hearing Nedwill's suggestions, but they were

not followed. At the staff meeting he heard Stewart say that consultations were 'very often unnecessary', mere matters of form, and in many instances were a farce. Stewart had done his own post mortem and said that the man had died from haemorrhage.

Mickle said he had been struck by the large amount of bleeding during the operation. He agreed with Nedwill that as it was a new operation Stewart ought to have held a consultation to explain what method he proposed to use. Board member Stevens asked Mickle if he thought this was a serious operation, and Mickle agreed that it was. Prins then asked if he thought the operation had been 'skilfully performed', and Mickle said he thought it had been done with skill.

Nedwill next called the house surgeon, Dr Robinson. He remembered receiving a note from Nedwill asking him to delay any post mortem until the medical staff had met, but Robinson had replied to say that he would only do so if he thought it fit, or if the board directed him. Nedwill asked if there had been a temperature chart, and Robinson said there was, but it could not be found. Robinson had administered the chloroform, while sitting beside the patient's head, and admitted that he could not really see what was being done. Robinson had never seen Nedwill or Stewart perform a major operation without a prior consultation, except in emergency cases of strangulated hernia. He considered Stewart 'a very skilful operator'.

Stewart then asked Robinson about various steps in the operation. In reply to one question, Robinson said that under certain circumstances he would not hesitate to sever the omentum: 'I would have done so in the case under notice'.

That concluded the first day of the inquiry.

On the evening of Wednesday 14 January the inquiry resumed at 7.30 pm. This time there was a 'very large' attendance by the public, despite the 'wretched' weather.²⁵ Clearly the word had spread that this inquiry might produce some entertainment. Nedwill first called the hospital's chief wardsman and dresser, Richard Brown, who produced Strickland's temperature chart. [This showed that the patient had suffered a high fever on the second day after the operation, suggesting a serious post-operative infection.] Brown said that Strickland had begun to sink within 24 hours of the operation. While changing his dressings Brown had not noticed any swelling or inflammation, and there was very little discharge from the wound. He thought the scrotum was no more discoloured than might be expected. [This testimony was later contradicted by two other witnesses.]

Nedwill then recalled Dr Mickle, who repeated his previous statement that he thought the operation had been 'skilfully and carefully conducted'. He saw Stewart apply a catgut

ligature, and thought it had been properly applied. He did not know how it had been prepared, and agreed that catgut ligatures were apt to slip or dissolve.

Nedwill told the inquiry that he considered the stump of the sac had not been properly ligatured and suggested a clamp to prevent further haemorrhage. A clamp would have brought the stump outside the external wound where it could be reached to stop further haemorrhage. Mickle agreed that it would have been safer to use a clamp, but this was a matter of opinion. He did not think Stewart was to blame, as he no doubt considered the ligature quite safe. He thought that a silk ligature would have been safer than catgut, and a second ligature should have been applied.

Stewart interjected: 'Don't you know that Dr Nedwill is accustomed to give his advice unsolicited?' Mickle asked the chairman if he had to answer that, and Thomson said it was not necessary. Stewart continued to quiz Mickle about the use of clamps and ligatures. Mickle was aware that some authorities disapproved of the use of the clamp, but thought it was less likely to cause haemorrhage. He had seen Dr Stewart use catgut successfully, but most surgeons now preferred silk.

Nedwill noted that both Banks and Hood distrusted catgut, but Stewart quickly asked if Mickle would follow the advice of Professor Annandale of Edinburgh. Mickle said he knew Annandale, and would not hesitate to follow his example. Stewart then rather smugly said that Annandale preferred catgut.

Turnbull then asked Mickle about spectators interfering with operations. Mickle said he had been house surgeon and knew the rules. He knew that a spectator should not interfere in an operation while it was going on, and assumed that it had been a matter of urgency that made Nedwill offer advice. Turnbull addressed the chairman and said he wanted to establish that when Nedwill refused to assist he became a spectator and 'any interference from him would lead to mischief'.

Mickle said that he did not know at the time that Nedwill had refused to assist. He thought that only extreme urgency would prompt Nedwill to make a suggestion. [Nedwill's suggestion was to arrest fresh bleeding.] Prins then asked Mickle about the clamp. Mickle agreed that it would have been difficult to apply. He added that secondary haemorrhage could be expected in any operation, and that even the best-directed operations sometimes failed.

Nedwill stood up to ask another question, but Thomson told him to sit down, 'otherwise there would be no end to the inquiry'. Nedwill insisted that he was entitled to ask Mickle about the tenaculum, and Mickle answered promptly that this would have given the opportunity for another ligature when the stump was so short that it could not be

grasped. The ligature had already slipped once. Mickle said he would like to say at this point that he considered himself competent to perform any operation in surgery. He was a Fellow of the Royal College of Surgeons (Edinburgh), and the only one in Christchurch.

Nedwill now recalled Robinson, who said he had heard Nedwill make his suggestion at a time when active bleeding was going on. He was administering the chloroform, and could not see much of the operation, but he was satisfied that it had been skilfully performed, and would swear as such. He raised a laugh when he said he was busy administering reform, instead of chloroform. When the laughter had subsided, Nedwill observed, 'His eyes are closed to my suggestions, but open to the correctness of the operation'.

[There may have been another explanation for Robinson's slip of the tongue. He was a notorious alcoholic, and was dismissed from the hospital at the end of 1885 when he appeared before a meeting of the board, visibly drunk.]

Nedwill then asked Robinson about the temperature chart, but he said he knew nothing about it. He had not signed or initialled it. The chairman intervened to say, 'You must know something or nothing about it'. Robinson then admitted that it looked like one of the hospital charts, and could be that of Strickland. He had not taken the man's temperature, but saw a nurse put it down. If the patient had peritonitis he had it only slightly. [!] He denied having said that Nedwill 'often' said he would agree with whatever Stewart said. When asked about the Consultation Book he said he could not produce it, as it had disappeared from the board room some weeks ago. He had never kept his own case book.

Nedwill then explained to the inquiry what a case book was, and what it should contain. The latest one he could find was when Dr Frankish headed the staff [in 1882]. Robinson said he was not going to keep any book not ordered by the board. He thought that the information Nedwill sought might be in the Admission Book, or in the Treatment Book. Together they would equate with a Case Book. The chairman then ordered the Treatment Book to be produced.

[Nedwill had made good use of the Treatment Book in the 1880 inquiry, showing that the treatments prescribed for certain cases were those for typhoid rather than gastro-enteritis.]

Nedwill now drew attention to Rule 13, which required a Case Book to be kept, and that it should be signed by the chairman of the medical staff. He asked Dr Deamer if he had

signed it lately? Deamer said no. Nedwill then protested at this manner of conducting a public institution, and members of the public said 'Hear, hear'.

Robinson explained that the Case Book had disappeared two years before. He then kept another book, but that had also disappeared a few weeks before the inquiry. He added, hopefully, 'It might yet turn up'. Nedwill explained that the missing book would have shown whether or not he was punctual in attending consultations. Robinson said he wished he could produce the book, 'as it would expose, well, something'. Deamer then volunteered that most of the consultations while he had been chairman of the medical staff had been merely 'talky, talky', unimportant conversations. Nedwill concluded by saying that it was deplorable that no record of a single operation or consultation at the Christchurch Hospital had been made for two years.

Stewart now asked Robinson about secondary haemorrhage, and Robinson said he would always look out for that during an operation. He then assured the inquiry that the book had gone missing about six weeks before, 'and had not been made away with on account of this inquiry'. Prins asked if Nedwill had ever asked for this book, and Robinson said he had not.

Nedwill at this point protested against the antagonistic tone of this questioning and remarked that the medical members of the hospital board [Prins and Turnbull] had always 'looked upon him as a criminal to be prosecuted by them'.

The next witness was Dr Frederick Hunt, another Edinburgh graduate, who had come to Lyttelton as surgeon on the *Edwin Fox* in 1880. He was a short stout man who lived in Ferry Road and practised in the Woolston area, where he was notorious for swearing at people who got in the way of his buggy.²⁶ Though he attended the operation on Strickland, he did not follow it closely, and did not hear Stewart say what he was going to do. He saw the sac opened and several inches of intestines spill out. He saw Stewart manipulate them to separate adhesions, but he did not recall seeing any omentum and could not say what was removed from the sac. He assumed that Stewart had removed any excess omentum. He considered the operation for radical cure of hernia as 'an exceedingly grave one'. He had himself operated for hernia, several times, but not with this method. He thought this case was 'decidedly one for consultation'. He heard Nedwill suggest that a tenaculum should be used, to prevent bleeding. There had been a little haemorrhage at this time. A tenaculum would tie the arteries more securely.

Hunt said he would not have suggested such an operation to any of his patients. He thought that the operation had been 'boldly performed', but boldness and skill did not always go together. He thought this a very serious operation, with the risk of peritonitis, haemorrhage, and shock.

Stewart asked Hunt if he would operate for a strangulated hernia in an emergency without a consultation. Hunt admitted that he had never had to deal with such an emergency, and would not regard himself as an expert for such an operation. He believed the clamp was suggested to arrest bleeding, and was not aware, as some claimed, that the clamp had been given up in abdominal surgery. He thought that Nedwill intended the clamp to be used temporarily, while ligatures were applied.

Nedwill then asked Hunt if he had ever operated for a strangulated hernia, and Hunt said that he had, when it was not an emergency, and had saved the patient's life. Nedwill asked Hunt if he had heard that Dr Stewart had tried to make him out 'not to be a good surgeon', but Hunt said he had not heard that rumour. Turnbull intervened to ask Hunt if he had ever seen the operation for the radical cure of hernia, and Hunt said that he had, but by a different method. He had not seen this one. Turnbull snapped back, 'Exactly, you did not see it at all'. This attempt to discredit Hunt's testimony drew laughter from the public gallery.

Nedwill then said he had no other witnesses, except one who was not available that day.

Stewart now read a prepared statement which listed his qualifications and experience, and then asserted that Nedwill had been motivated by 'professional jealousy'. Stewart was outraged that such a charge had been brought by someone who had frequently broken the rules himself. This was a breach of professional etiquette, and he doubted whether any other medical men in New Zealand would support Nedwill. Stewart claimed that all the advances at Christchurch Hospital over the past two years had been introduced by him, notably ovariectomy, a more scientific treatment for diseases of the joints, and the radical cure of hernia, though the latter had not been successful. Stewart claimed that Nedwill's patients had deserted him, and gone to himself instead.

Stewart said that there was nothing in the rules to define what was a major operation and what was a minor one; that was for the surgeon to judge. Nor was there anything to say how many should attend a consultation, or a rule to oblige the surgeon to abide by the decision of the whole staff. He felt he was justified in taking for himself what was a major operation, but in his view this was not a major operation. It had no difficulties for a surgeon who knew his anatomy, and there was less risk than in a case of strangulated hernia, where there might be inflammation or gangrene. There had been no mutilation, but 'merely a readjustment of parts into their natural places'. [This is curious, as he had already admitted cutting the sac and omentum.] Stewart insisted that the mere fact of a patient's dying did not make this a major operation. Much depended on the patient's age and state of health. In the present case the patient was willing and anxious to undergo the operation.

Stewart claimed that the method he had used was now 'recognised by all schools of surgery'. There had been no need for a consultation, and if there had been Nedwill may not have attended, as Dr Robinson had said that Nedwill often left the whole thing to Stewart. Had Nedwill protested, his protest would have carried no weight. It was humiliating for Nedwill to admit that he did not know what the operation for radical cure of hernia was. He claimed that Nedwill had confessed that he knew nothing of one of the most important of modern operations. [This was simply not true.] This operation was 'far beyond the stage of a trial', as Nedwill claimed. There had been 150 in Liverpool with no deaths, and Annandale had done upwards of 70 with only eight deaths.

Stewart said he had always 'loyally assisted' his colleague, but Nedwill had 'shuffled out of his responsibility in this case', leaving a junior to take his place as principal assistant. He had remained, 'sulkily watching each step', and had then complained to the board. If Nedwill had asked, he would have explained what he was going to do, but he [Stewart] 'did not consider himself called upon to deliver a clinical lecture at every operation'. He would not have objected had Nedwill reported truthfully to the board. [Another curiosity: Nedwill had reported a breach of Rule 6, which Stewart had admitted.] Stewart ended his statement thus: 'Dr Nedwill had acted with disloyalty to his colleague, with gross inhumanity to a patient, and with infidelity to the board'.

[While Stewart may have felt that Nedwill had been disloyal to himself, it is hard to see how Nedwill had acted with 'gross inhumanity to a patient': it was Stewart who had failed to tie a ligature securely, thus causing post-operative haemorrhage. In reporting his disquiet to the board, Nedwill was following proper channels.]

The chairman now invited Nedwill to ask Stewart any questions he might have.

In reply, Stewart again stressed that he had deemed this a minor operation and the patient was anxious to have it performed. In his experience most consultations were mere farce. Stewart then proceeded to read Annandale's 1880 article from the *Edinburgh Medical Journal* which outlined four methods for the radical cure of hernia using catgut. Annandale had recommended the fourth, but Stewart had conducted the third method, as recommended by Stokes, Banks and Parker. Whatever others may have heard him say, Stewart now insisted that this was a case of irreducible hernia. Strickland was unable to use a truss, and was at risk of his hernia strangulating. Annandale said that if a truss could not be fitted then the operation was justified. An editorial in the *Medical Times* said that this operation had been rare but had now been done 150 times at Edinburgh with no fatalities. Stewart then quoted from Stokes of Dublin, McGill of Leeds and Banks in the *BMJ* for 1882, to prove that he was 'thoroughly acquainted with the literature'. He did not rely on textbooks as they were so often out of date.

As for the clamp, Stewart insisted that it had been ‘abandoned by all surgeons in abdominal surgery’, and he would cite Mr Lawson Tate on this point. Nedwill commented that Tate was referring only to ovariectomy. Stewart continued, saying that after Sir Spencer Wells abandoned the clamp he had 20 per cent more success in his operations. If he had used a clamp and the man had died, he would have blamed the clamp. As for the haemorrhage, Stewart thought it had been ‘very slight’. [Mickle thought it had been ‘great’.] In tracing the steps of the operation, Stewart said that he had cut away the neck of the sac, and not any omentum. He added: ‘The fact was that the patient never attempted to rally’, and though unsuccessful in the present case he would not hesitate to adopt the same method again.

[How could the patient rally when he was slowly bleeding to death from a slipped ligature?]

Nedwill then quoted from the 1883 edition of Holmes and Hunt’s *System of Surgery*: ‘not so very antiquated an authority after all’. Turnbull interjected to ask when Nedwill had received that book, and Nedwill replied, ‘Last night. I quoted the edition of 1860 yesterday but this edition says the same thing’. Stewart remarked that he was quite justified in styling this textbook ‘antiquated’. Nedwill pointed out that the chapter itself was by the consulting surgeon of Guy’s Hospital and it warned against the method adopted by Stewart. Nedwill offered to read from the March number of *The Lancet* for 1884, but chairman Thomson objected to having long extracts read out. Stewart then said that he thought *The Lancet* was, ‘to a certain extent, antiquated’.

Nedwill then asked Stewart to go through the steps of the operation again. Stewart dictated the following:

I ligature the sac as near the external abdominal ring as possible, and I then pass a ligature through the abdominal wall and through the pedicle of the sac. I do it all with one ligature. It is recognised by every surgeon who does the operation.

Stewart said he had found a small amount of omentum on the sac and removed it. The intestine was adherent by a small piece of mesentery [the fold of peritoneum that holds the intestine to the stomach wall] but the omentum was quite free. There was no large mass of omentum. He had said it was an irreducible hernia but he may have been misheard. He then tied the omentum with catgut.

When reminded that he had said to the staff that the man had died from haemorrhage, Stewart denied this, and said that the staff must be mistaken: ‘The temperature chart showed that the man had not lost much blood’. [How could this be deduced from a

temperature chart?] On looking over the matter, Stewart thought there was nothing to show that the man had died from haemorrhage: 'It must have been a mistake when he said before the staff that he had made a post mortem and had found that the cause of death was haemorrhage'.

This astonishing contradiction prompted Nedwill to say that it might be necessary to exhume the body. He had himself heard Stewart say that the man died from haemorrhage, and would be prepared to swear this under oath. Chairman Thomson agreed, and said that Stewart had admitted as much.

Stewart prevaricated, and said that the man had died from 'a certain amount of shock and want of vitality'. He recalled that he had said in front of the staff that the cause of the haemorrhage had been the slipping of a ligature. He did not think he was called upon to follow Nedwill's advice. He did not think that a tenaculum ought to have been used, as there was no need for a further ligature. Finally, in response to a direct question from Nedwill, Stewart admitted that he had never performed this operation before.

Nedwill's patience gave way at this point, and he expostulated: 'This man makes himself out to be an expert and myself to be a fool, yet he has never performed this operation before. I never heard a greater piece of bounce!'

He again asked Stewart directly if he had ever performed an operation for hernia before, and Stewart admitted that he had not. By now Stewart was highly irritated, and declared that he held no consultation because none of his colleagues knew half as much as he did. [But only from reading.] Stewart said to Nedwill, 'I am aware that you have operated for hernia, and the man is not dead, but I shall have to ask Dr Robinson about that'.

Now addressing the chairman, Stewart said that he had ignored Nedwill's advice entirely 'because it was useless'. He did not think the man had peritonitis. He had made a partial post-mortem examination, and found that one of the ligatures had slipped: 'There was nothing to stop the staff being present'. [They had not been told about it.] 'Dr Nedwill had always been extremely officious in giving advice'. He had taken steps to prevent haemorrhage: 'Did Dr Nedwill want the public to believe that he allowed the man to bleed to death? People bled to death after operations by the most skilful surgeons'. He had operated on a Friday at 11 am, when the light was best. He was aware that the hospital rules set down Wednesday at 3 pm for operations: 'It was a barefaced piece of impudence in Dr Nedwill to raise such a question, when he did the same thing at 12 o'clock on one day'. Nedwill at once said that the circumstances of an emergency had justified him.

Stewart then declared that he considered the best time to operate was when the best light could be obtained: 'It did not matter a fig for the rules'. [This prompted laughter from the public gallery.] He had performed the post mortem at 7 am, as Robinson had said that was the most convenient time for the hospital.

By now it was 10.30 pm, and the chairman adjourned the inquiry to the following Monday evening.

Saturday's *Lyttelton Times* published a letter from Nedwill correcting a previous report of the hospital inquiry in which a reporter had said that Nedwill wished he had apologised to Prins and retired from the inquiry. Nedwill said that this was meant ironically: it would have saved him from a lot of trouble. The reporter failed to notice what was said immediately before and after this: 'As I did not choose to utterly ruin my reputation, I did not accept the suggestion'. The reporter had failed to report what Nedwill said next: 'But I have a public duty to perform and I am determined to do it'. Nedwill wrote that he had entered this matter 'with reluctance', but as he occupied a responsible position in a public institution, 'it would have been criminal on my part had I not sought for a public and exhaustive examination. I fearlessly await the result'.²⁷

The inquiry resumed on Monday evening, 19 January.²⁸ Once again the city council chamber was crowded: this was free theatre, seeing the spectacle of doctors disagreeing with one another in public. Chairman Thomson said that the evidence taken so far was now ready for signature, and would be available at the office of Mr March, the board secretary. Nedwill said he expected that the evidence would be read over. He could not rebut statements made by witnesses until he had seen what they said. Thomson said that he did not think Nedwill was entitled to a copy of the evidence. Nedwill replied: 'Well, then, I am at least entitled to hear it read over'.

Stewart then stood up and said he had to apologise to the board for something he had said in the previous session, 'when he had been speaking under aggravation'. He had said that he would always operate on a patient, rules notwithstanding, at any hour he thought proper. In this case he had done so to save the patient another three hours of delay and agony.

Board members then consulted among themselves and decided to proceed without reading over the previous evidence. It was now their turn to question the witnesses.

In reply to Turnbull, Stewart said he was prepared to show that the operation for radical cure of hernia was not new, and had been performed in various parts of the world with success. He proceeded at some length to quote from various books and medical articles.

He claimed that Sir William McCormack, 'a distinguished surgeon', had said at a meeting of the British Medical Association in Belfast in 1883 that the operation was not as dangerous as some people thought. Stewart then laid all of these books and papers on the table.

Nedwill stood and said that he was now prepared to offer evidence rebutting certain statements made by Dr Stewart at the last sitting, but Chairman Thomson said he considered that Nedwill had concluded his case, and it was for Stewart to continue calling his witnesses. The board had contacted one of Nedwill's witnesses, who had not been available before, and he was now present. Nedwill said he wanted to question Hunt and Patrick again, but Thomson said he could only question this last witness, Letford. Nedwill protested against this, but the board consulted and the chairman ruled that Stewart could call further witnesses after Nedwill had questioned Letford.

Letford had been a patient in the hospital at the same time as Strickland. He thought Strickland was not as bad a case as the man Nedwill had successfully operated on shortly before. He could walk about freely, and certainly did not seem in any danger of his life. After his operation, Strickland had never complained but he had never rallied. Letford had helped nurse him, and on the Sunday noticed 'considerable haemorrhage' in his bed. His scrotum was swollen and discoloured.

Stewart interrupted and asked Letford if he was a doctor, and Letford said no, he was not. Stewart suggested that Nedwill had 'hunted him up' to bear witness, but Letford said no, he had gone to Nedwill. Chairman Thomson asked Letford if he had been given questions to answer, but Letford denied this.

Instead of allowing Nedwill further questions, Thomson asked Stewart to proceed with his witnesses. Robinson's evidence was as contradictory as it had been for Nedwill: while he thought this operation 'more major than minor' he still did not think a consultation had been needed. Stewart had frequently told Robinson that he regretted following Nedwill's advice during operations. Robinson 'considered Dr Stewart was right when he proved Dr Nedwill wrong'. He had witnessed Nedwill's successful hernia operation. Some omentum had remained after the intestines had been returned, and Nedwill wanted to clamp this, but Stewart had advised against it, and Nedwill had abandoned that course.

Brown the dresser said that he considered Dr Stewart 'skilful and careful' as a surgeon. Dr Deamer said that he thought the surgeon was the right person to decide if an operation was major or minor, and that Stewart had completely exonerated himself at the meeting of the medical staff. He had often seen Stewart operate and thought he was 'very capable'. The medical staff had agreed that the matter should not go any further.

Dr Bakewell thought that the decision to operate or not was one for the surgeon to make. In the present case he saw no need for a consultation. Interference by advice of assistants or bystanders in operations was 'highly improper' and fortunately very infrequent, but Dr Nedwill, he had noticed, gave way to this practice: 'There was no more intolerable nuisance than such advice'. Having heard the evidence, he considered there had been no need to bring this case before the board, or the medical staff.

The board retired for five minutes and agreed that Nedwill might now put questions to the witnesses through the chairman. Nedwill said he was prepared to prove by his own observation, and the evidence of Drs Hunt, Patrick and Mickle, that the operation as described by Dr Stewart was not the operation he had performed. If the board refused to allow him to produce this rebutting evidence 'his mouth would be shut'.

Thomson said that Nedwill would not be permitted to offer his own statement in evidence, as the proceedings had gone on long enough. He could only question the witnesses. Nedwill called Dr Patrick, and asked him whether Stewart had said the hernia was reducible or irreducible? Patrick asked to have his previous evidence read over, and the chairman read a passage from the first day's evidence. Patrick had understood Stewart to say that the hernia was reducible. Patrick then asked for his evidence to be read in full, but Thomson refused this. Nedwill asked Patrick if he had anything to add to his previous statement, but Patrick said he had no interest in the investigation and if he had said anything different from his original testimony he would not be likely to say so now.

Nedwill said he would have to offer his own evidence to show that Patrick had made a different statement, but Thomson would not allow this, and said that Nedwill's request was 'quite irregular'. Nedwill then questioned Patrick about the operation, but Patrick said he had not been able to see very much. He had seen a coil of tissue cut away, but could not say what it was. He did not think the man would survive. Patrick said that much of what he had said before had been influenced by his belief that the man was suffering from a reducible hernia, which did not warrant such a dangerous operation. He denied ever saying to Nedwill that the operation had been performed in 'a rough and clumsy manner'.

Nedwill now wanted to call Dr Hunt, but Thomson saw no need for this, as Hunt had said he could not see all of what was done during the operation. Nedwill said he had hoped to get a good deal more out of Hunt, as he had out of Patrick. Thomson said he could submit written questions for Hunt through the board. Nedwill then asked if Dr Doyle could be called. Thomson asked if Doyle had been present at the operation, and when Nedwill said no, he refused, saying that whatever Doyle said would be mere

hearsay. He then refused to allow Nedwill to give his own description of the operation, and declared the inquiry closed.

William White, Mayor of Sydenham, who had been Nedwill's opponent in previous inquiries, now stood up for him and said that he did not agree with this abrupt end to proceedings. If Nedwill had further rebutting evidence to produce, then the board should hear it. Thomson said it was unusual for a single member of the board to disagree with the chairman's ruling. White responded: 'Your decision was arrived at at that end of the table, and without hearing argument'. At this, the public gallery hissed.

Nedwill stood up and said, 'I must respectfully protest against my mouth being shut up, as it has been'. This time the crowd applauded. Thomson said firmly, 'The inquiry is closed'.

Nedwill was an Ulsterman, and one of the stereotypes associated with people from Northern Ireland is that they are stubborn. He was never one to give up, even when apparently defeated. After a few days, he wrote a long letter to the hospital board in protest at having his mouth shut by the abrupt end to the inquiry, and he also sent it to the *Lyttelton Times* for publication. The chairman had said, 'The inquiry must be closed some time, and cannot go on forever'. Yet the inquiry had sat for just three evenings, a total of nine hours: Royal Commissions had been known to go on for weeks. Nedwill thought that the public would 'not be satisfied without further enquiry'.²⁹

He regretted that 'charges and insinuations' had been made against his professional character which he was given no opportunity to refute. As proof that the inquiry had not been exhaustive Nedwill reminded the board that the chairman had asked him to write down any questions he wished to put to the witnesses, with a request that the replies be sent to the board. There had been serious discrepancies in Stewart's statements, most notably that he told the staff Strickland had died from haemorrhage but told the inquiry he had died from shock and lack of rallying power. Nedwill thought the body ought to be exhumed to establish the true cause of death. If allowed, he would have shown the inquiry the hospital's Register of Deaths which stated that Strickland had died from 'Haemorrhage after operation for hernia':

I must therefore, in the public interest, respectfully but emphatically protest against the action of the Board in closing the inquiry without having exhausted every possible evidence which could be adduced. I request that this protest may be attached to my evidence.

The hospital board met as usual on 28 January and debated what to do about Nedwill's letter. The chairman said he had asked the mayor for the use of the council chamber

again on Friday night, for a private board meeting closed to the public. William White insisted that reporters should be present, and to his surprise Turnbull agreed, but Hawkes thought there should be no interference by the public in the deliberations of the board. Ick thought they should consider the letter there and then, but as there was routine business to be gone through the board agreed to a special meeting on Friday, at which they would decide whether or not to admit reporters.³⁰

As it turned out, at the Friday meeting a majority of the board voted to exclude reporters from the discussion, after White had failed to find a seconder for his motion to allow Nedwill to call rebutting evidence. When he asked for the inquiry to be reopened, the chairman ruled this out of order. The reporters were called back to hear the board's decisions, and the newspapers reported the following:

1. The Board finds, and Dr Stewart admits, that the operation on William Strickland was performed without a consultation with the staff, and the weight of the medical evidence is in favour of the operation being considered a major one, but the circumstances surrounding the case offer some justification for Dr Stewart omitting to consult his colleagues.
2. That this Board desires to place on record that the result of this inquiry has in no respect diminished its confidence in Dr Stewart as Honorary Visiting Surgeon to the Hospital.
3. That the Board at its first meeting take into consideration the evident laxity in holding consultations and other matters affecting the patients which have been brought out during the enquiry.

A short editorial in the *Press* summarised these findings, and noted that the circumstances offered Stewart some justification for not consulting his colleagues about what was now agreed to have been a major operation. The board had expressed its 'undiminished confidence' in Stewart as honorary visiting surgeon. The editor wrote that the *Press* 'as a lay journal' declined to enter into discussion of 'difficult medical questions', and thought that the board should not have been asked to go into the merits or otherwise of Stewart's operation. Nedwill should have confined his charge to the breach of hospital rules. However, it was commendable that the board had decided to investigate apparent 'laxity' in consultations and other matters. It was the board's duty to ensure that this sort of thing did not happen again. If the existing rules were insufficient, they should be revised, and enforced.³¹

The *Lyttelton Times* published a much longer and more critical editorial about the hospital inquiry. Stewart was in the happy position of a man who is told by the judge that he leaves the court without a stain on his reputation. But in defending himself, Stewart had 'strongly impugned' Nedwill's motive. If the board had been even-handed, it would have placed on record its appreciation of Nedwill's action, because it was 'unquestionable' that Nedwill had 'acted throughout this unpleasant business in the highest spirit of duty'. Instead, the board had left Nedwill's reputation in doubt and himself accused of 'bad motive'.

There was, obviously, a conflict of medical evidence about which lay people were unable to decide. Even if Nedwill had been allowed to bring his 'rebutting evidence', the public may have felt more confused than ever. At least the board had agreed that a rule had been broken, but with extenuating circumstances. The first was that there had been a general laxity about consultations, in which case the board ought to have censured the whole staff. The second was that the patient had insisted on having the operation done. The editor thought this second reason 'very extraordinary'. It meant that the board of a public institution had allowed a rule made by medical experts to be broken at the whim of a layman. A more significant circumstance was Stewart's admission that he had never performed this operation before.

Nedwill's public-spirited action had at least done some good in forcing the board to investigate the evident laxity about holding consultations, and other matters affecting patient safety, especially the keeping of proper records and a case book. As for the medical etiquette of not giving advice during an operation, when the best medical talent in the city was assembled at an operation, surely a surgeon should welcome their expert advice: 'In fact, the Hospital generally seems to require an overhaul'.³²

Nedwill responded with gratitude to this editorial, writing the very next day to thank the editor for having done him justice. In Strickland's case he had been forced to choose between shirking his public duty or calling for an inquiry, and he had chosen the latter. He had appeared before the board fully expecting to get fair play, but was prevented from going fully into the facts of the case. The chairman had closed the inquiry and Nedwill 'found that his mouth had been shut'. The chairman had allowed insinuations to be made against Nedwill without giving him a chance to refute these allegations. The two medical members of the board [Prins and Turnbull] had been seen whispering with Stewart and had shown bias against Nedwill. The inquiry had not been conducted in a satisfactory manner.

Nedwill stated that it was a public disgrace that the hospital had no case book or record of consultations. The 1880 Royal Commission had instructed the house surgeon to keep a proper case book in his own handwriting, but the inquiry revealed that nothing had changed since 1880. Nedwill ended his letter by saying that the damage to his personal reputation was of little consequence, but a review of hospital management was urgently needed in the public interest.³³

In the same issue of the newspaper, the hospital board advertised for applications to fill the post of honorary visiting surgeon left vacant by Nedwill's resignation.³⁴

Letters to both newspapers favoured investigation by a Royal Commission. One letter from 'A Surgeon' assured readers that the most distinguished British and European surgeons frequently consulted with each other during operations, and he would have given evidence to this effect had Nedwill been allowed to call further witnesses. The most interesting letter was signed by one 'Citizen' who thought the board's verdict had been against the weight of the evidence and inconsistent with itself. Stewart had broken one of the hospital's most important rules, yet the board said it had 'undiminished

confidence' in him. He had never before performed this operation, and never told his colleagues what sort of an operation he intended to perform. He had ignored advice from one of his colleagues aimed at preventing the man dying from loss of blood. He had made a post mortem examination without telling his colleagues, and told the medical staff that the cause of death was loss of blood from a slipped ligature. However, before the board, he claimed that this was a mistake, and the man had died from shock and lack of the will to live. He had told the board that he would operate whenever he liked, regardless of the rules. He had claimed to know more about this operation than any of his colleagues, yet had never done it before. The death certificate was not allowed as evidence, but it stated the cause of death was loss of blood. Hospital board members should be thankful they were not facing an election 'before an indignant public'.³⁵

Other letters in the days following also urged a Royal Commission. One said that the board had conducted its inquiry so badly that it had brought itself into 'well-merited contempt'. Another said that the board's verdict had 'completely destroyed public confidence in its management'.³⁶

Nedwill now wrote another letter to the Hospital Board, which met to consider it on 11 February. After noting the discrepancy between Stewart's statements as to the cause of death before the medical staff and then before the board, Nedwill wrote that he had been prepared to prove that the operation as performed by Stewart was not as he had described it, and was not according to Annandale's method. His witness on the latter point was a medical gentleman who had recently been Annandale's dresser. [This was probably Mickle.] Nedwill insisted that he had not meant to say that he objected to recognised operations for the radical cure of hernia, but rather that what Stewart had done was not a recognised method.³⁷

He reminded the board that Prins had attempted to intimidate him at the start of the inquiry, and had continued to communicate privately with Stewart throughout, even though as a board member he was supposed to be acting as an impartial judge. Nedwill then listed seven points that had been proved by the inquiry. These virtually replicated the points made by 'Citizen' in his letter to the *Times*. After complaining that he had still not been given a copy of the proceedings, Nedwill concluded that the board's decision had been contrary to the weight of the evidence, and he hoped the board would join him in calling for a Royal Commission.

The rest of this meeting was a fairly stormy debate about whether or not to accept Nedwill's latest letter, and whether or not to ask the government to appoint a Royal Commission. Stevens, White and Hulbert continued to press for a fuller public inquiry, but they were outvoted by Thomson, Chalmers, Hawkes, Ick, Prins and Turnbull. Instead, the board voted to send Nedwill's latest letter to Stewart for his comments.

In complete contrast to public criticisms of the inquiry, the hospital's medical staff [Anderson, Deamer, Mickle, Robinson and Townend] had met and elected Stewart as their chairman. Stewart then wrote to the board and said they were happy to assist in

making any improvements that might be suggested, as far as the staff was concerned. He thought the nursing was 'very good' and the food 'extremely liberal and sufficiently varied'. The staff had resolved to keep case books from now on, and had agreed that Prins and Turnbull be recommended to the board for the positions of consulting surgeon and physician.³⁸

It later emerged that Deamer and Townend had proposed Stewart as the new chairman of the medical staff. Dr C. Morton Anderson had protested against the appointment of consultants as unnecessary and asked that a decision be deferred until Nedwill's successor had been appointed. He had been outvoted by the others. He asked that his dissent be recorded, but the staff minute book could not be found, so this was written down on a sheet of foolscap paper.³⁹ Case books were not the only things to go missing at Christchurch Hospital.

Bakewell had written to the *Press* to explain why he passed the message from Prins to Nedwill at the start of the inquiry. He had done so because he knew that Prins and Nedwill were not on speaking terms, and because he had previously tried to arrange a reconciliation between them. When he told Nedwill what Prins had suggested, Nedwill had rounded on him, 'as if (to use a common phrase) he would have bitten my head off'. He then told Frankish, and they both laughed the suggestion to scorn. Bakewell had said, 'Well, it's not my suggestion, it is Prins'. Bakewell thought any idea of intimidation was 'preposterous'.⁴⁰

This prompted another letter-writer, 'A Lover of Peace', to comment that Nedwill was quite right to regard the message from Prins as an act of intimidation: 'After hearing the evidence, does Dr Prins still think that Dr Nedwill should have apologised?' The public of Christchurch had evidently made up their minds that a Royal Commission was needed, 'but, Sir, Royal Commissions are expensive luxuries'. A better suggestion had been made by the Mayor of Christchurch [Hulbert], that the government should abolish the board and the staff and make fresh appointments: 'Or, better still, the Board might quietly resign'.⁴¹

The hospital board was now deeply split between the supporters of Nedwill and Stewart. At its meeting on 17 February, Stevens and Hulbert moved for a Royal Commission of inquiry, but were outvoted by Thomson and the others. Thomson suggested that all the letters to the papers had been written by one hand [implying Nedwill] and said it was merely a medical men's quarrel and not one about management. Turnbull made a long speech in support of Thomson, saying that there had been no complaints about the hospital or the staff. He blamed Nedwill for contributing to the rule-breaking he now condemned. Prins was even more scathing about Nedwill, claiming that his medical colleagues wondered why the board had not censured him for 'his treachery and disloyalty to the profession'. Prins and Hawkes moved to keep the minutes of the inquiry secret. White supported Stevens and Hulbert, pointing out that Nedwill's main charge about the breach of Rule 6 had been fully substantiated. When White said he thought the present board should be swept away altogether, voices in the public gallery said 'Hear, hear'. Thomson refused to allow him to make any further comments. White's

amendment, to send papers to the government inviting Dr Grabham to review the inquiry, was passed. Hawkes then proposed that Prins and Turnbull review the hospital rules. Dr William Symes was appointed to replace Nedwill as visiting surgeon.⁴²

The author of a letter in the *Times* from 'Spectator' may have spoken for many observers of this affair when he wrote: 'The truth is, that the doctors look upon the Hospital as their happy hunting ground, their property, and not the property of the public. They ignore rules and regulations at their pleasure ... Dr Nedwill has committed the unpardonable sin of rounding on his mates. The operation should not have been attempted and was badly done. The medical men vow never to forgive him for this. The public are likely to be more lenient'.⁴³

The Canterbury Medical Association was also deeply split by the McBean Stewart saga. Nedwill had been its president for the 1883-4 term, and Doyle had replaced him at the 1884 AGM. Attendances had been small, so meetings had been held every second month. The Auckland association had suggested combining to advise the government about law changes affecting the medical profession, and at the October meeting Dr Hacon proposed setting up a New Zealand Medical Council. At the December meeting Hacon proposed a sub-committee to advise the Christchurch Hospital on a suitable location for an infectious diseases hospital.⁴⁴

Then came Nedwill's protest to the hospital board about Stewart's operation followed by the board's inquiry in February 1885. The March meeting of the medical association lapsed for want of a quorum, and a replacement meeting in April tabled a letter of resignation from Nedwill.⁴⁵ The letter has not survived, but he probably preferred not to attend meetings where Turnbull, Robinson and Stewart were likely to be present. [Prins had never joined the Canterbury Medical Association.] Nedwill's resignation was accepted at the meeting held on 14 May 1885.⁴⁶

Nedwill continued to make his quarterly reports to the Board of Health as its medical officer, and his report for the first quarter of 1885 appeared in the papers on 13 May.⁴⁷ The drainage board's financial troubles were now so serious that it had foreshadowed having to shed staff, and on 18 May it announced its decision to give up being a Board of Health, for lack of funds. Nedwill's position as medical officer of health was among those terminated.⁴⁸

At this low point in Nedwill's career as medical officer, a bombshell now exploded above him that would further alienate most of his Christchurch colleagues and involve him in a spectacular court case that made his name notorious throughout New Zealand early in 1886.

On Thursday 21 May 1885, Wellington's *Evening Press* newspaper published a short article under the sensationalist headlines: 'EXTRAORDINARY HOSPITAL SCANDAL: REVOLTING DISCLOSURES: MANSLAUGHTER OR WORSE: THE GOVERNMENT TRYING TO HUSH IT UP'. The journalist predicted that most readers would react with 'horror and indignation' to what he was about to reveal. He wrote that Dr Courtney Nedwill of Christchurch had been conducting a correspondence with the Colonial Secretary for some time about 'irregularities and misdoings' at Christchurch Hospital. Nedwill had reported that the internal management of the hospital had long been 'something scandalous' and the health of patients had been neglected. He had given the government 'full particulars' of a case in which 'a patient suffering from hernia was operated upon quite improperly, and under a complete misunderstanding of the nature of his malady, with fatal results':

Such was the incompetence and criminal negligence shown in this case, that the unfortunate victim was first subjected to untold tortures, mangled frightfully, through sheer ignorance of anatomy, and then removed from the operating table without any of the necessary processes having been applied for eliminating the worst consequences of all this violence and butchery.

The writer declined to 'sicken our readers' with all the details, but declared that the publicity given to 'this shameful business' should bring about a 'searching, unsparing, public and independent inquiry into the whole matter'.

He added that 'the person who thus tormented and killed this unhappy inmate of the Christchurch Hospital' had been warned by Nedwill of the awful risks he was running, 'but declined to submit to advice, lost his head, and ended in a mere reckless endeavour to conceal the results of his bad work'.

An inquiry had been held by the hospital board, but it was 'worse than perfunctory' and had, 'partly from fear and partly from favour ... virtually burked all enquiry'. The same man who had caused the death of the patient had conducted his own post mortem and his certificate of death, though untrue, was accepted as sufficient. He claimed that the patient had died from his malady, whereas there was no doubt that he had 'bled to death through an inconceivably stupid blunder in the operation'.

It was further alleged that witnesses at the inquiry resorted to 'the grossest false swearing' to shield the culprit. Nedwill's account of the state of affairs at Christchurch Hospital was 'so crushingly discreditable to the management of that extremely costly institution' that the government seemed to have been paralysed, not knowing how to act. The Colonial Secretary shrank from any further *exposé* and had written to thank Nedwill for his information but advised that the government, after full consideration, had decided to take the matter no further. Nedwill had then asked for an independent Royal Commission, but the government had concluded that the facts disclosed by Dr Nedwill, 'if true', warranted a criminal prosecution through the courts rather than a Royal Commission.

The writer concluded that the government was trying to dodge its responsibility for the management of Christchurch Hospital, and wanted to hush up 'one of the most terrible scandals' that had ever occurred in a public institution in New Zealand.⁴⁹

The proprietors of the newspaper were William Francis Roydhouse and Edward Wakefield. Edward Wakefield (1845-1924) was one of the more brilliant members of the Wakefield clan, the son of Felix Wakefield, brother of the theorist of systematic colonisation, Edward Gibbon Wakefield. He had been a minor civil servant in Wellington before becoming editor of the *Timaru Herald* in 1874. He entered Parliament in the following year as the Member for Geraldine, and soon made his mark as an aggressive and ambitious politician. Defeated in 1881 he was elected unopposed for Selwyn in 1884 to oppose Harry Atkinson, but when he failed to win a cabinet post he became Atkinson's colonial secretary. (When the Atkinson administration fell, his constituents sent him a large dead rat.) For two years he edited and part-owned the *Evening Press* before moving to New York and then England. He was one of the best parliamentary debaters of his day, feared for his wit and sarcasm, and made many enemies.⁵⁰

Nedwill was very likely appalled when he read this article. It was exaggerated, emotive and contained errors that he knew his enemies would pounce upon. [He had never been a member of the hospital board.] While he had accused Stewart of incompetence, he had never used such words as 'tortured', 'mangled', 'violence' or 'butchery'. It later emerged that Nedwill had first met Wakefield at a dinner hosted by Christchurch's Stipendiary Magistrate, Richmond Beetham, sometime in April, when he knew he was likely to lose his post as medical officer of health. Having been turned down by the government for an official inquiry, Nedwill may well have been feeling bitter and dejected. He appears to have told his story to Wakefield, which Wakefield would have welcomed as ammunition with which to attack the government through his newspaper.

The first reaction to Wakefield's inflammatory article came from the Canterbury Medical Association. A special meeting was called for 27 May 1885 attended by Drs Doyle, Frankish, Guthrie, Hacon, Moorhouse, Patrick, Robinson, Stewart, Symes and Turnbull. Doyle as president summarised the article, and Turnbull immediately proposed:

That this society expresses its sympathy with Dr Stewart under the irritation which he must suffer from the terrible and scandalous article which appeared in the *Evening Press* of Wellington, Thursday 21 May 1885, and that this society will give its support to Dr Stewart in any steps he may take to secure redress.

Turnbull further proposed a sub-committee to assist Stewart, namely himself with Patrick and Prins. [Prins was not even a member of the Medical Association.] These motions were carried by a majority of those present. Dr Frankish then proposed asking the government to appoint an independent commission of inquiry, and Doyle seconded it, but they were the only ones to vote in favour: the others all voted against it. Hacon

now moved, seconded by Turnbull, that a copy of the vote of sympathy for Stewart be sent to the Colonial Secretary. This was also carried by a majority. Symes and Patrick then moved that a special meeting be called for all the medical men of Canterbury to consider the *Evening Press* article.⁵¹

At the association's annual meeting on 11 June 1885, Doyle was replaced as president by Dr Patrick. Frankish handed in his resignation and left the meeting. Patrick later wrote to ask him to reconsider, but he did not reply. The July meeting lapsed for want of a quorum (five), and the August meeting, attended by only Anderson, Hacon, Patrick, Robinson and Thomas, lapsed when Robinson was called away to attend an accident. Frankish had still not replied to the president's letter. A thinly attended meeting in September heard Patrick read a paper on *placenta praevia*, but the meetings for October, November and December all lapsed for lack of a quorum. The Canterbury Medical Association had virtually collapsed as a result of deep personal divisions over the McBean Stewart affair.⁵²

Stewart's response to the *Evening Press* article, no doubt encouraged by his friends Turnbull and Prins, was to sue the proprietors of the newspaper for libel, claiming damages of £2,000 [\$420,000 equivalent in 2021]. He could not sue Nedwill, as Nedwill had neither written nor published the article.

When the Medical Libel Case (as it became known) came up before Mr Justice Johnson in the Christchurch Supreme Court in August 1885, the defendants' lawyer, Frederick Wilding, moved for a change of venue as there was no probability of a fair trial in Christchurch. The hospital board's inquiry had been fully reported in the local newspapers and Wakefield as a politician was deeply unpopular in Canterbury ever since he had opposed the West Coast railway project. Stewart's lawyer, Thomas Joynt, said that he was instructed to oppose a change of venue as this would be 'most inconvenient' for the doctors who had to appear as witnesses.⁵³

Wilding argued that most people in Christchurch had already made up their minds, and that this case was different from an ordinary libel action because it involved a great deal of expert scientific and medical testimony on both sides. The defence claimed that the matters contained in the article were true in substance and fact, and that they were of public interest, and that the article was only a fair comment upon them.

An affidavit from R. A. Loughnan, editor of the *Lyttelton Times*, claimed that 'full publicity' had been given to the matter in Christchurch, and that 'the educated classes had already given their opinions on the matter'. However, affidavits from Drs Prins, Turnbull, Deamer, Robinson, Patrick, Mickle, Irving and Townend opposed a change of

venue, as their absence from town might put their patients' lives in danger. [Yet there were plenty of other doctors in Christchurch to attend to emergencies.]

Nedwill's affidavit claimed that the findings of the hospital board's inquiry had 'strongly influenced' public opinion in Christchurch, and a meeting of thirteen doctors had been held which described the alleged libel as 'untruthful and malignant'. Only six of the doctors were required to give evidence, and it was desirable to hear expert evidence from medical men from outside Christchurch. He added that as medical officer of health he had been obliged to do many things which had made him unpopular with the medical men of Christchurch.

The judge asked how many medical men there were in Christchurch and Wilding replied that there were 35 registered medical practitioners in Canterbury. After consideration, Mr Justice Johnson decided that the trial should be held in Dunedin. A train journey would be less expensive for the witnesses than if it were held in Wellington, and the Medical School offered the prospect of impartial expert medical witnesses.

Stewart and his lawyers challenged this decision, and returned to argue their case in October. Their suggestion of Timaru was rejected by the judge, as Wakefield had many supporters there. Joynt suggested Ashburton, but Wilding pointed out that Stewart had lived there and had many friends there. Joynt said he had not been aware of this. The offending article had not been published in the Christchurch newspapers, but the rest of the country knew all about it. Wilding insisted that there was still 'considerable excitement' about the case in Christchurch. Doctors were talking to their patients about it. The city seemed to have divided into two opposing camps. One set held that Dr Stewart ought to be hanged, the other that Dr Nedwill should be kicked for his officious interference. Johnson said he would consult with his brother judges.⁵⁴ After some further delay, the judges all agreed on Dunedin.

The Medical Libel Case finally opened in the Dunedin Supreme Court on 24 March 1886.⁵⁵

It would be tedious to repeat the same evidence that was given at the Hospital Inquiry by the Christchurch witnesses, but there were a few surprising revelations, and Nedwill was at last given an opportunity to describe in detail what he saw during Stewart's operation on the unfortunate Strickland. New evidence was taken from an expert medical witness in Dunedin, who was one of the country's leading surgeons. What follows is a condensed summary of the voluminous newspaper reports of the trial.

Stewart's legal team was headed by the rising Christchurch lawyer Walter Stringer, who later became Sir Thomas Walter Stringer KC and a judge of the Supreme Court, assisted

by Frederick Fitchett, a future Solicitor-General. Wakefield's team was led by Sir Robert Stout, the Premier and New Zealand's Attorney-General, assisted by Frederick Wilding, who later became a KC. This trial would see some of the country's top legal brains pitted against each other. Whoever won, the legal costs were sure to be considerable.

Stewart declined to testify, and relied on Brown, the hospital dresser, and Drs Mickle and Prins, as his team's key witnesses. [Prins had not even witnessed the operation.] Brown began by saying that Nedwill never collected his cards: they had to be served on him in person. As for the operation, Brown said 'It was one of those operations one cannot see much of. In fact, the operator himself does not see much of it'. Brown insisted that Stewart did not 'lose his head' but remained calm throughout. There were some sharp haemorrhages which Stewart secured by forceps while Mickle ligatured the blood vessels. He was relieved when Stewart ignored Nedwill's suggestion of a clamp, as Christchurch Hospital had not used a surgical clamp in fifteen years, and he was not sure where to find one. Brown said he saw no omentum, and no great bleeding. Discharge from the wound might be mistaken for bleeding later. Brown and Robinson had assisted Stewart with the post mortem, at 7 am, and Stewart had asked him to snip off the main ligatures. One was much tighter than the other. He also saw several smaller ligatures. The scrotum was 'slightly discoloured and swollen'. Brown was quite sure the sac had not been pierced with a needle: 'If any doctor swore so, his evidence would be false'. [Yet Stewart himself had described how he secured the sac with a needle and catgut thread.]

Brown admitted that 'there was bleeding from the man after the operation until his death', and there was, 'of course', a discharge from the wound. Yet in the next breath, Brown contradicted himself and said that if Robinson said there was gradual haemorrhage from the operation to the man's death, 'I would not believe him'.

Brown said he knew about Robinson's drinking problem, but insisted that he had been 'perfectly sober that day'. He denied ever seeing Robinson drunk or incapable while on duty, and said that Robinson always did his work 'very well'. However, Brown was dismissive of Dr Frankish, who had been six years on the honorary staff: 'I don't think that he knows much about the hospital'. According to Brown, Stewart had decided on the operation on the day of Strickland's admission: 'the conversation by the doctors about the gravity of the operation took place on the day the man came in'.

Under questioning, Brown revealed the source of his bias against Nedwill. When questioned about the death of a patient named Hempton, who had died after the use of a stomach pump, Brown said Robinson had done it: he had merely held the pump. Yet Nedwill had blamed Brown for the man's death.

[Brown's contradictory testimony was clearly intended to protect Robinson and Stewart from blame. He was not a trained anatomist and admitted he had not seen all steps of the operation.]

Dr Mickle's testimony carried much more weight, as Stewart's assistant on the day. He insisted that a clamp was not needed as a ligature could be applied 'quite easily without

it'. He claimed that Nedwill had advised using a clamp both before and after the first ligature. Mickle said that all the best surgeons had condemned the clamp because it would have dragged the stump of the sac down: the main aim was 'keep the stump up as high as possible in order to close the abdominal opening'. The incision had been three or four inches long [10 cm] and small bleeds had been controlled with ligatures. The sac had been revealed and several loops of intestine had emerged. Stewart had separated the adhesions, partly with scalpel, partly with his fingers, and then attempted to return the bowel. This was difficult at first, and Stewart had used 'gentle traction', then it all went back with a rush, 'as it always does'.

Mickle said that Stewart's division of the sac had been done a little too close to the ligature, and caused further bleeding, prompting Nedwill again to suggest using a clamp. Mickle saw Stewart take a long needle and thread it, then pass it through the abdominal wall and out the other side, close to the opening. Mickle thought it may have passed through the sac, or behind it.

Mickle admitted that he had never before seen a radical cure for hernia, but having read Annandale's papers he was satisfied that the operation had been 'skilfully and correctly performed'. Stewart 'saw what he was doing, and was quite competent to do it': he was 'perfectly cool and steady'. Stewart had said it was a reducible hernia, but Mickle may have misheard him, as Stewart had his head down at the time. Once seen, it was obviously irreducible. The sac was attached to the cellular tissues of the scrotum.

Under questioning, Mickle admitted that Stewart had modified Annandale's method. Annandale advised the stitching of the pillars of the external ring, but instead Stewart passed a needle through the abdominal wall, then through the pedicle and out the other side, then tied the thread. The pedicle was then held in the [spermatic] canal and blocked it. Professor McCormack had also suggested this variation.

Next day Dr Prins began his evidence by saying that the radical cure for hernia was now a recognised operation and was no more dangerous than any other sort of abdominal operation.⁵⁶ It was no longer rare, but like all abdominal surgery it was still 'hazardous'. He insisted that the clamp had been abandoned in favour of ligatures. Under questioning he admitted that a ligature was liable to slipping, but he would never use a tenaculum as it was likely to tear the tissue of the stump. He admitted that he had never performed this operation, but had only read about it. He had had a conversation with Stewart about Strickland a week before the operation, and had read Annandale's 1880 paper and several articles in the *British Medical Journal*. He told Stewart to put the pros and cons to the patient, pointing out the risk, and if Strickland was willing to take the risk, then Stewart should go ahead.

Prins agreed that all major operations ought to have a consultation beforehand, but consultations at the hospital had been 'loosely attended' and even if colleagues were doubtful the surgeon could still proceed and 'do as he liked'. Prins felt he was entitled to sit on the hospital inquiry, as he had told Turnbull, Hawkes, Ick and White of his

conversation with Stewart. Most astonishingly, in view of his repeated hostility to Nedwill, Prins denied any 'partisan interest' against him: 'What I did was on the merits of the case and for the dignity of the profession'.

Sir Robert Stout opened his argument for the defence by stating that this case was not a question of manslaughter but only one of libel, and if the libel involved an individual the defence only had to prove the truth of the statements for the jury to find in favour of the defendant. [The *Lyttelton Times* here said plaintiff, in error.] However, if the criticism had been directed at a public institution, not an individual, the defence had only to show that the comments were 'reasonable and fair' for the jury to find in favour of the defendant.

Stout then cited a number of precedents and other libel cases. Even if the statements were found to be untrue, the plaintiff had to establish malice on the part of the writer against Dr Stewart for his case to succeed. It was clear that Dr Nedwill had not written or published the article, and did not even know who had written it. He had shown that Rule 6 had been broken, and alleged that the Christchurch Hospital had been 'disgracefully managed'. Records of operations had not been kept, and medical staff had not observed the rules.

Prins and Turnbull had sat on the hospital inquiry, after encouraging Stewart to try this operation, and had failed to declare their conflict of interest, or their bias against Dr Nedwill. Prins had given contradictory testimony, on the one hand saying this operation was 'thoroughly recognised', no more hazardous than any other abdominal operation, yet he had previously stated it was 'rare and hazardous'. Nedwill had pointed out that this operation was still risky and 'speculative' because the best surgeons were not all agreed about the method.

Stout stressed that the patient had died. Stewart had initially said he died from haemorrhage after the operation, but had then changed his tune, saying the patient had lacked the will to live. In New Zealand, it seemed that nobody ever died from a failed operation: the doctors always claimed that their operations had been done correctly, whether the patient lived or died.

Stout then called the defence's star witness. Dr Millen Coughtrey (1848-1908) had been the first Professor of Anatomy at the Otago Medical School (1874-6) and had been sent to the UK in 1875 to negotiate recognition for the Otago medical courses. Glasgow had accepted the two year courses, but Edinburgh had objected that Otago only had the status of a provincial university, and had no Royal Charter. This failure to secure recognition had meant that the Medical School had very few students, and Coughtrey had resigned to return to private practice after a quarrel with the university council. He later built his own private hospital, and was regarded as one of the most capable surgeons in Dunedin.⁵⁷

Coughtrey had performed Annandale's radical cure for hernia, but told the court that Stewart's operation had used a different method. He used models and diagrams to show the jury how Stewart had not followed Annandale's method exactly. In his testimony Stewart had been 'confused' and misused the term 'messentery', applying it to the adhesions instead of the mesentery proper. Sharp haemorrhage could be expected from cutting the spermatic artery, or an old-established hernia. The sac and omentum would also be likely to bleed. Coughtrey said that he would normally use a ligature to stop bleeding, but would use a clamp as well if that was not effective.

Coughtry stressed that a consultation was essential before a first-time operation, especially if it involved an unfamiliar procedure. He always held a consultation before a major operation, and explained the steps clearly to his assistants. He had done six operations for strangulated hernia, and had lost three of the patients. [Same score as Nedwill.] It was always better to use the radical cure before the hernia became strangulated. The tricky part of such an operation was the separation of the adhesions, because of the risk of perforating the bowel.

Stout's next witness was Dr Hunt, whose testimony was brief and to the point. He had trained in surgery at Guy's Hospital in London, but had not seen Annandale's radical cure before. He had expected Wood's operation. He saw the sac being cut, and the ligature applied before it was cut. Stewart had then twisted the sac 'into a sort of rope', and transfixed it with an aneurism needle and catgut ligature. The lower one was a double ligature. He had seen Stewart manipulate coils of intestine and separate the adhesions before returning it to the abdomen. He had heard Nedwill recommend the use of a clamp, and a tenaculum. He did not think the patient would survive.

Dr Patrick was much less helpful. Though he had been back to the UK for a course in anatomy, he was not an expert on abdominal surgery, and had never before seen the radical cure for hernia. He thought hernias were more common in the UK than in New Zealand: 35 per cent of army recruits were rejected because of hernia. Like Hunt, he had expected Wood's operation, and had not followed all of Stewart's steps. His memory of the operation was now 'very hazy'.

Edward Wakefield, as co-proprietor of the *Evening Press*, said that he had not himself written the article, but took full responsibility for its publication. He had met Nedwill at dinner at the home of the Magistrate, Richmond Beetham, and Nedwill had asked him as a Member of Parliament if he could help persuade the government to hold an inquiry into matters at Christchurch Hospital. He had listened to all that Nedwill told him, and made notes later that evening. He had read the newspaper reports of the hospital inquiry and thought it had made 'a most absurd report'. Then the Canterbury Medical Association had published its resolution of sympathy for Stewart, and Wakefield had seen this as an attempt to gag the press.

When asked about the extreme language in the article, using such terms as ‘tortured’, ‘mangled’ and ‘killed’, Wakefield said it was the duty of a newspaper to state its message boldly, in order to catch the public’s attention.

He knew that Nedwill had had quarrels with other doctors when he was medical officer to the Board of Health: ‘he got into a good deal of hot water as Health Officer’. But Wakefield said he had not known there was such a ‘violent personal and professional feud’ among the Christchurch doctors. He knew that the Hon. W. Reeves had made a speech about the Stewart affair in the Legislative Council, attacking Nedwill, and that Nedwill had been unable to get an article published by Reeves’s newspaper. This made him more inclined to help Nedwill by revealing the full facts of the hernia case.

Richmond Beetham confirmed what Wakefield had said about meeting Nedwill at his home, sometime in April. Nedwill had asked where he could find Wakefield, and Beetham had invited them both to dinner. Like Wakefield, Beetham thought the report of the hospital inquiry had been ‘a most perfunctory one, and ... a perfect farce’.

William Letford, the patient next to Strickland’s bed, returned to the witness stand to say that he had talked to Strickland and had helped to change his bed. Unlike Brown, Letford had noticed blood on the sheets, quite a lot of it: ‘There was blood under him. It seemed to be trickling from the wound’. When questioned as to whether this was merely serous discharge, Letford raised a laugh by insisting it was a ‘serious discharge all right’. He added that Robinson had given Strickland morphia after the operation, and the other patients had regarded this as ‘a kind of a death warrant’. Morphia was usually given to hopeless cases to relieve their pain as they sank and died.

Dr Frankish testified that he had been in practice in Christchurch for 22 years, and for fourteen of them he had been honorary physician at the Christchurch Hospital. He had resigned a year before Strickland’s admission because of ‘irregularities which prevailed at the Hospital ... breaches of rules and regulations ... detrimental to the welfare of the patients’. He could not comment on the operation itself, but he had often observed operations and thought that the person administering the chloroform would not see all of the steps of an operation. A post mortem at 7 am was most unusual, because the medical staff would not normally attend at such an early hour.

At last Nedwill was allowed to give his own version of what he had seen in the operating theatre that day.

He had no idea as to the method of the operation apart from what was written on his card: ‘radical cure for hernia’. He expected Wood’s operation, and was surprised when Stewart made a long incision and revealed the sac. Nedwill asked if it was a reducible hernia, and Stewart replied in the affirmative. When the sac was opened, ‘a large mass of omentum’ came into view:

Dr Stewart tried to push it back through the abdominal ring, and found he could not do so. He then passed his finger into the ring and pulled down a large mass of omentum and bowel. Having done this he pushed it back into the abdomen

with considerable difficulty. It was pulled out again, and finally pushed back again. He tried again to get the omentum out of the sac, and succeeded in getting part of it separated. He next lengthened the incision towards the portion of the sac next to the scrotum. He then tried to get the sac dissected from the surroundings [adhesions], and in dissecting the coverings outside the sac a large lump of veins came into view. These were pulled about with his fingers, in order to divide them.

It was at this point that Nedwill made his first suggestion to use a clamp to secure the veins. He warned Stewart that if he persisted he would have 'troublesome haemorrhage'. He advised that it should be tied with double ligatures and then divided. Stewart ignored him and said nothing.

At this time, there was a mass of omentum in the sac that had been partially separated. The sac itself, and these layers of fascia, were taken by him [Stewart] and twisted up tight. He looked at it, and then asked for a needle, with a double ligature. The needle went through it. He cut it so close to the ligature that instantly the part was covered with blood. This was sponged out, but the blood came very fast, Dr Stewart trying to secure the points of blood by torsion. The stump had retracted and was at down at the bottom of the wound. I saw that it could only be secured by using a tenaculum and ligaturing below. The tenaculum is used for the temporary purpose of passing the ligature underneath.

Again, Stewart ignored this suggestion. Nedwill then saw Stewart 'fiddle' a ligature over the top of the stump: 'I can use no other expression.' But he could see that it would not hold, and warned Stewart, 'I feel perfectly certain that you will have haemorrhage returned there. I would advise the stump to be clamped into the external wound, so that if haemorrhage returns you will have it under control'. Stewart then began suturing the skin flaps in the usual way, and Nedwill left the room.

My suggestion about the clamp was made because I felt certain that the ligatures were imperfectly tied. I did not see any suture passed through the abdominal wall, the stump and the outer wall.

Nedwill did not think the patient would survive, and that evening wrote to the chairman of the hospital board to ask for a meeting, as Rule 6 had been broken and it had been a major operation. No meeting was called, and he wrote again on 22 December. He asked Robinson to postpone the post mortem, but Robinson said he would act as he saw fit.

At the staff meeting Nedwill heard Stewart say, 'I believe the operation would have been successful if the ligature had not slipped and allowed the man to die from haemorrhage'. The staff refused to support Nedwill's call for an inquiry, so he wrote his letter of resignation. The hospital board held an inquiry, and Nedwill wanted to call further evidence, but this was denied and the inquiry was closed. Nedwill later wrote to the Colonial Secretary and he replied that if Nedwill thought it a matter of public interest he should get two members of Parliament to bring it up. That was why Nedwill

approached Wakefield: 'At that time I was not aware that he was connected with a newspaper'.

Nedwill insisted that he had nothing to do with the writing of the article, and that he had no ill will towards Stewart: 'We were on very good terms, though never intimate'. In demanding an inquiry, Nedwill said he did it solely in the public interest: 'As a surgeon, I did not consider that the operation on Strickland was properly and skilfully performed'.

Nedwill had visited Strickland on the morning of 21 December. Nedwill had in the same ward a patient on whom he had performed a successful operation for strangulated hernia. He was in the bed next to Strickland. He saw Brown and Letford changing the sheets under Strickland:

I saw he was very much swollen; that there was blood issuing from the lower part of the wound; and they were removing something – tow or rags – that was saturated with blood, from beneath him. I also saw that his scrotum was immensely swollen and very black. I believe the temperature chart at that time recorded 104. [This description of the scrotum directly contradicts what Brown had said.]

Nedwill asked that his patient be removed to the opposite side of the ward, and he afterwards gave instructions to Robinson that Brown was not on any account to change the dressings on his patient. This was because someone had said that Strickland had peritonitis, and Nedwill feared there might be danger of infection for his patient.

Dr William Henry Symes was the next witness. He had replaced Stewart as chairman of the medical staff at the Christchurch Hospital. He told the court that he had had 'large hospital experience', and added that the radical cure for hernia was now a legitimate operation. In his experience consultations did not always cover the method to be used in an operation. That was usually left to the surgeon to decide. This operation was difficult to follow, depending on the amount of adhesions and bleeding. It would be very difficult for a spectator to follow the steps if there was a lot of bleeding, unless he stood very close. In the operation for hernia, Symes preferred ligatures to clamps. Early closing of the wound was always desirable. Usually the pillars of the ring were sutured to prevent a recurrence of the hernia, but sometimes they were left to heal by themselves. Sometimes the same suture was passed through the stump and the pillars of the ring, but it would be unusual to use the same suture for tying the neck of the sac and suturing the pillars.

Dr John Frankish was then recalled, though Stringer objected to the whole of his evidence. Frankish said that up to six spectators should be able to follow the steps of an operation without difficulty, though the person administering the chloroform would not be able to see into the wound. In all his fourteen years at the hospital he had never heard of a post mortem being held before 9 am, and he had attended a great many.

Other members of staff would be unable to attend at 7 am. It was unusual for the dresser to do any more than open the body for examination: he should not be asked to untie or cut any ligatures.

Nedwill was cross-examined by Stringer on 27 March 1886.⁵⁸ The lawyer did his utmost to trap Nedwill into agreeing with the more extreme language of the newspaper article, and Stout had to intervene several times to restrain Stringer. Nedwill did agree with the sentence that claimed the patient had been operated on 'quite improperly, and under a complete misunderstanding of the nature of the malady'. Stewart had said it was a reducible hernia, whereas it was in fact an irreducible hernia. Stringer suggested that Nedwill may have misheard Stewart, but Nedwill insisted that during an operation a surgeon is 'listening sharply to hear the answer'. [Stewart's strong Scottish accent would probably have distinguished clearly between these two words.]

Nedwill then agreed with the passage referring to 'incompetence and criminal negligence', but not with the journalist's words 'mangled' and 'tortured'. He added that insufficient precautions had been taken to prevent the man dying from haemorrhage.

Stringer then tried to persuade the jury that Nedwill had attached more importance to the lack of consultation than to the charge that Stewart had committed manslaughter, quoting from his statement to the board chairman. Nedwill explained that he had been placed in a 'very difficult position'. He had gone to the inquiry to present his evidence about the lack of consultation and 'The first thing that met me when I got into the room was a lot of doctors glaring at me'.

Then Bakewell brought the message from Prins, suggesting that he apologise and withdraw, and Nedwill regarded this as intimidation. The chairman then asked him to make his charges, and Nedwill felt he should have had a barrister to advise him: 'I was a little flustered, and said what you have read to me'. Stringer suggested that Nedwill had forgotten about the other charges, which amounted to manslaughter, but Nedwill insisted that he had not:

Stringer: Then why did you not make these other charges?

Nedwill: I thought my letter covered the whole ground I wanted the Board to enquire into.

Stringer: Let me understand this. Did your letter contain all the grounds of your complaints against Dr Stewart?

Nedwill: I wish to explain.

Stringer: I want a plain yes or no. You can explain afterwards.

Nedwill: Then put your question again. (Question repeated.)

Nedwill: I really don't know what answer to give you. I do not wish to fence the question, but I do not understand you.

Stringer: I want to know whether your letter contained the whole of your complaints against Dr Stewart. The letter you signed when you were asked to formulate your charges.

Nedwill: I think so.

Stringer: We have got it that this letter did contain all your complaints against him?

Nedwill: So far as I know.

Stringer: But you made no charge then of the operation being improperly performed?

Nedwill: I had to be very careful at this time of what charges I made. There were a lot of men ready to snap me up, and have no end of actions against me.

Stringer: Why did you not make a further charge?

Nedwill: I have told you that I had to go very cautiously about it.

Nedwill was finally allowed to explain that he hoped the Strickland case would be brought out by the inquiry and he would give evidence as a witness. Instead he was cast in the role of Crown Prosecutor. Mr Justice Williams here interrupted and suggested that it was reasonable enough for the board to assume that the person who made the complaint should lead the evidence in support of it. Nedwill said he had done his best. Williams then said it would have been the duty of the board to assist the complainant. Nedwill said 'The Board did not assist me. It was just the reverse'.

Stringer said that Nedwill had had several opportunities of formulating his charges, but Nedwill again insisted that he did not understand his position at the inquiry:

Stringer: Do you mean to say that you did not understand that you were asked to make your charges?

Nedwill: Yes.

Stringer: At that time did you consider that the no consultation was the most important of them?

Nedwill: I considered it was an important one, but I don't think it was the most important.

Stringer: Then you stated what was not true?

Nedwill: I did not say what was untrue. I believed I was speaking the truth, as I have always done. You are trying to twist my words in a way that I never intended to use them.

Stringer: But you said yourself, at the enquiry, that your charge of no consultation being held was the most important matter?

Nedwill: I suppose I did say so, but I ought to have said *one* of the most important.

Stringer then moved to the operation itself, and questioned Nedwill closely about the various steps he claimed to have seen. Nedwill again insisted that if Stewart had told him what method he proposed to use, Nedwill would not have sanctioned the operation. Stringer quoted from Nedwill's evidence, and isolated the specific objections Nedwill had made about the ligatures. Nedwill noted that these were the details the board inquiry had prevented him from bringing out.

When asked if he had great faith in the clamp. Nedwill replied that ligatures were preferable, 'but a clamp has its use, and a ligature its use'. Nedwill insisted that he suggested the clamp after the second ligature had been put on and further bleeding occurred: 'I saw that it was put on very unskillfully'.

Stringer: You say that you suggested the clamp after the second ligature was put on?

Nedwill: Yes, I do.

Stringer: At the inquiry several of the medical witnesses stated that you made the suggestion before the second ligature was put on?

Nedwill: That is quite untrue.

Stringer: Drs Robinson, Stewart and Mickle have said so.

Nedwill: Then they have stated what was not the fact.

Stringer: And you suggested the clamp?

Nedwill: Because I felt certain that the second ligature was not put on properly.

Stringer: Did you see Dr Stewart take hold of the stump with a forceps and hold the stump up?

Nedwill: I saw him take hold of it with an artery forceps, but it was much too small to grasp such a stump.

Stringer: Then a larger forceps would not have been sufficient.

Nedwill: I don't think any forceps would have been large enough. You would have had to get the tenaculum underneath and drag the stump up.

Stringer continued to question Nedwill about the details of the operation, and Nedwill admitted that he had suggested the clamp in order to keep the stump under observation, rather than to stop immediate haemorrhage. When Stringer proposed that Nedwill could have suggested another ligature, Nedwill said that Stewart seemed 'determined to take his own way in the matter'. His advice had been ignored, and he did not want to have any responsibility for having killed the patient. While the wound was being stitched, Nedwill went to the wash-basin and washed his hands. Then he returned to the table and said, 'I feel convinced that the stump has not been properly ligatured,

and I again advise you to use a clamp'. That was the second time he had warned Stewart about the ligature. [None of the other witnesses had recalled this second warning.] He then left the room.

Stringer asked Nedwill if he had felt 'a little bit nettled' that his suggestions had not been followed. Nedwill said he had not felt nettled: 'My feelings would be better described by saying that I was shocked'.

Stringer then questioned Nedwill very closely about the bleeding he had observed when he visited his patient and saw Strickland in the next bed. Nedwill was sure that blood was coming out, not running but oozing. Stringer asked if there was more than would normally be expected after an operation, and Nedwill said yes. He thought it could be coming from the spermatic veins. Stringer tried to get Nedwill to admit that bleeding from the spermatic veins could be dangerous, but Nedwill refused to be drawn into a definite statement. He finally admitted that he thought the amount of bleeding indicated danger for the patient. When Stringer asked why he took no steps to arrest the bleeding, Nedwill reminded him that Strickland was not his patient. If it had been an emergency, and blood was running fast, he would have intervened, but slow oozing was a matter for the surgeon or house surgeon to attend to.

In a further detailed description of the operation, Nedwill added that he thought Stewart had been confused about what to do next, as the bleeding obscured the wound, and that about three inches of omentum had appeared. Yet more omentum came out with the bowel, 'a piece as large as my two hands together ... It came up right above the lips of the wound'. Nedwill had been alarmed that Stewart had not taken care to exclude the spermatic veins.

Stringer then diverted attention away from the Strickland operation to question Nedwill about his misdiagnosis of a case of ovarian tumour at Kaiapoi: when the supposed tumour was excised, a living foetus was revealed. Nedwill asked for the doctor's name and the date, and Stringer said, 'So you want somebody to have a share in the blame with you?' which raised laughter from the public gallery. Nedwill protested that he was only assisting and it had not been his patient, but Stringer wished to cast doubt on Nedwill's professional ability: 'But you profess to know more about these things than anybody else, and set yourself up as a sort of critic'. Nedwill replied mildly, 'I have simply set myself up to reform abuses in the Christchurch Hospital'.

When Stringer persisted with more questions about the Kaiapoi case, and asked Nedwill to admit that even the most skilful and careful of surgeons are liable to mistakes and accidents, Nedwill quickly replied, 'Yes, but that just shows the necessity for consultations'.

Nedwill had performed operations on six cases of strangulated hernia, and three of his patients had died. He knew about the radical cure for hernia, but he 'did not think it was a proper thing to do' in these cases, as the risk was too great. In one of them he had moved to use a clamp and Drs Robinson and Stewart had disagreed, so he did not use

it: 'It is entirely false that Drs Robinson and Stewart had difficulty in persuading me not to use the clamp'.

Stringer remarked, 'You have had pretty frequent quarrels with your brother doctors'. Nedwill did not deny this: 'I have been six years Medical Officer to the Christchurch Board of Health. It would be very difficult to hold that position for six years without having some squabbles'. Nedwill then addressed the Judge and described the 1880 Royal Commission: 'I felt it my duty on one occasion to force a Royal Commission on the Christchurch Hospital for thwarting the Board of Health. They stated they had no cases of typhoid fever in the Hospital, when I was perfectly certain they had, and the Royal Commission proved that they had given false death certificates. They have not forgiven me since'.

The Judge asked if that included any of the staff of December 1884, and Nedwill replied that he referred to the staff five years before, when Prins was chairman.

Stringer then diverted attention away to a speech made by the Hon W. Reeves in the Legislative Council, in which he quoted Nedwill as having told him that some of his medical brethren in Christchurch were 'not only unworthy and vile from a moral point of view but were absolutely incapable as professional men'. Nedwill protested that this had been 'a most unwarrantable use of a private conversation'. Reeves had refused to publish an article about the hospital inquiry, and Nedwill had asked him to raise the matter in Parliament, but he had declined. Nedwill thought the Christchurch public were very apathetic in leaving one man to fight for reform in a public institution like the Christchurch Hospital.

Stringer at once cut in: 'Did it never enter your mind that the public might be right and you wrong?' Nedwill replied firmly, 'It did not'. Stringer pressed Nedwill to admit that he had given Reeves 'the full strength of the case'. Nedwill thought the facts made a strong enough case:

I had felt very uncomfortable in going to the Hospital; I was compromising myself on account of the irregularities going on, and I see now that I ought to have resigned long before I did. I committed no irregularities myself. It was the duty of the Chairman of the staff and the House Surgeon to see to the case book ... I have never made unfounded charges against anyone in my life.

Stringer then plied Nedwill with other cases in which he had been mistaken or had lost a patient. One was ten years before, in 1876. Nedwill recalled the case: 'I did not diagnose a typhoid fever patient as a lunatic. That man was a lunatic, and a very bothersome one too. He was not under my care when he died, and I was not responsible for his life'. Nedwill recalled one of Stewart's operations for ovariectomy: 'I did not, during the course of that operation, advise him to abandon it. I swear that I did not. He committed a grave blunder, but the patient recovered notwithstanding. (Roars of laughter.) I had an operation for ovariectomy, but my patient did not recover. (More laughter.) But I made no blunder. All the surgeons in London could not have saved that woman'.

Stringer then raised the matter of a woman whose son was in the hospital when Strickland died. She had asked, 'Can I get him out?' and Nedwill had said she could take her son away whenever she pleased: 'it is utterly false to say that I said, "Stewart will kill your child." I was a candidate for re-election to the staff, but the new Hospital Board rejected me. There is not much disgrace to be rejected in Christchurch.'

In reply to a question from Stout, Nedwill remarked: 'Dr Prins is not on the new Board, but he manipulates it pretty well'. Stringer then said: 'But Dr Stewart was elected'. Nedwill replied: 'Oh, yes, Dr Prins would make quite sure of that'.

After some further discussion about the post mortem, Nedwill was allowed to stand down, and Stout began his address to the jury. He reminded the jury about his previous point, that the essence of the libel charge against the defendants was that what they did was motivated by malice. Wakefield had written a series of articles about hospitals, calling for reform, and this article had to be placed in that context, as criticism of a public institution.

Stout alleged that the plaintiff's legal team had presented the case as a fight between Dr Nedwill and Dr Stewart, but 'it was nothing of the sort'. It was whether or not the medical men of Christchurch could be criticised in a public newspaper or not. The resolution of the Canterbury Medical Association had not referred to the hospital's management: it was the doctors 'clubbing together' in defence of 'the dignity of the profession'. They did not care twopence for Dr Stewart, then or now: their sole concern was to protect their own reputations against any criticism by a newspaper.

He went on to argue [at considerable length] that it was now abundantly clear that Christchurch Hospital was in need of reform, and that in pointing out the need for that reform the newspaper article had made 'fair comment on a public matter'. That was the role of the press, and it protected them against libel actions, if what they reported was true.

It was not for the jury to decide if manslaughter had been committed: that was not the charge. If they found the article was not maliciously motivated, they must find for the defendants. He did not care what else they found: 'they might uphold the dignity of the medical profession in Christchurch as high as their Cathedral spire. They might let Dr Prins go to bed happy that he had rooted out Dr Nedwill or anyone else who dared to thwart his authority'. In short, Wakefield had written this article not from malice but as a public duty, to reveal the gross scandals which had arisen at the Christchurch Hospital.

Stringer's address to the jury was equally long. He argued that the article was not protected as a privileged communication, as comment on a public institution, but had accused Stewart of 'manslaughter or worse' in language that 'transcended the bounds of moderation'. Stewart had undoubtedly committed a grave error of judgement in not holding a consultation, but the other doctors had all said that even if a consultation had been held, the result would have been the same.

Stringer said that Nedwill had 'sneaked out of the room' as the operation was about to start, to avoid taking an active part in it, and had then 'hung about to see what he could pick up'. [In fact he and Hunt had been called away to see a patient.] Nedwill alone had complained: all the other medical men of Christchurch had supported Stewart. Even if Wakefield had believed all that Nedwill had told him to be true, he had not bothered to check the facts by asking other doctors who had been present at the operation. His article had 'branded Dr Stewart as a murderer, tore his reputation to tatters', and had promised further enquiries, implying that there was yet more dirt to be dug up. Wakefield had written with 'utter recklessness', to attack the government and to advertise his newspaper. He had needlessly damaged Dr Stewart's reputation.

Mr Justice Williams summed up for the jury by reminding them of the definitions of libel and defamation. The article was by its nature defamatory, as everyone knew that it referred to Dr Stewart. The defence had argued that a number of statements in the article were true, and that the article was fair comment on a public institution and the conduct of a public officer in that institution. The jury had to decide on both of these issues. While the press claimed a special privilege of comment on matters of public interest, the journalist was not above the law: if he made specific charges against an individual then he had a duty to prove that they were true. It was not enough for him to believe that the charges were true: he must take steps to verify them, and Mr Wakefield had not taken those steps.

After commenting at length on the evidence, Mr Justice Williams came to the matter of damages. The plaintiff had claimed £2,000. The jury had to consider the nature of the charge, the position of the person charged, and the publicity which the article received. There were various grounds for mitigation: the good faith and reasonableness of the journalist, the facts of the case, and whether or not Nedwill's complaint had been justified.

The issues to be decided were:

1. Is the article complained of a libel?
2. Has the publication been justified (a) by reason of the allegations of fact being true; (b) by reason of these allegations being fair comments on the conduct of the plaintiff in his capacity as one of the Hospital staff?
3. If it is not justified from either of the above reasons, what damages is the plaintiff entitled to recover?

The jury retired at 5.50 pm and the Foreman came back at 6.30 pm to say that there was no possibility of a unanimous verdict. The Judge said they must deliberate for at least three hours, and at the expiry of that time he would take a verdict of nine.

The Foreman came back into court after that time, and delivered the verdict of nine. They had found both issues in favour of the plaintiff, and awarded one shilling in damages.

The Foreman said that the jury had unanimously requested that the Government be asked to make 'a rigid inquiry' into the management of the Christchurch Hospital. Mr Justice Williams said he had no doubt that the press would take a note of that recommendation. Stringer then asked about costs, and it was agreed that this would be left over for argument in Chambers.

Stewart had won his case, but it was a hollow victory. A majority of the jury had apparently been convinced by Professor Coughtrey that Stewart had not followed Annandale's method exactly, and had failed to tie the last ligature securely, resulting in Strickland's death. Nedwill had been correct to protest against the lack of consultation, which might have prevented this tragedy, and had also been correct to protest about the way Stewart had conducted the operation. The newspaper article had been extreme in its language, and this had undoubtedly damaged Stewart's reputation, so he deserved the victory. But he had also bungled the operation, causing a man's death. He had never done this operation before, and had merely read about it. Nedwill had performed six hernia operations, so at least he was familiar with the anatomy involved. Stewart had ignored his advice during the operation, and two clear warnings that more haemorrhage could be expected.

Nedwill's loss of three patients was normal for abdominal surgery at this time, especially for strangulated hernia, and his medical brethren may have felt that Stewart deserved the benefit of any doubt in such a case. Even the best of surgeons lost patients after correctly-performed operations, and most doctors would have thought, 'There but for the grace of God go I'. But Stewart had changed his story twice, from this being a reducible hernia to an irreducible, and from death from haemorrhage to death from shock and lack of the will to live. Both the death certificate and the hospital's death register plainly said death had been caused by haemorrhage.

Why did Nedwill persist, as one against the united body of his medical brethren? We may never know, but his sense of moral outrage must have been strong. Stewart was a very self-confident surgeon, even arrogant in his self-belief, who believed himself to be above the hospital's rules, and Nedwill had witnessed him bungling a major operation. He probably felt that Stewart should not be allowed to shrug off the death of this man. Prins had spoken about the dignity of the profession: Nedwill had protested for the good of the profession, and the patients.

The publishers of the *Evening Press* did not escape lightly. Mr Justice Williams awarded costs to the plaintiff, and these were estimated to be about £1,000.⁵⁹ Editorial response to the verdict in the medical libel case was mixed. Smaller provincial papers such as the *Timaru Herald* and the *Taieri Advocate* thought that Stewart had deserved substantial damages for what the former described as ‘a reckless and heartless attack upon the professional reputation of a medical man of high standing’.⁶⁰ The *Otago Daily Times* thought the verdict ‘unsatisfactory’ and ‘inconclusive’, and agreed that substantial damages ought to have been awarded for Mr Wakefield’s ‘highly malicious libel’. However, the *Evening Star* pointed out that there had been no personal malice shown by Wakefield towards Dr Stewart: he had insisted that the article had been motivated entirely by the public interest with the aim of getting a government inquiry into the management of the Christchurch Hospital. Though the article’s strong language had not been justified, it had done ‘excellent service’ in bringing public attention to the breach of rules at the hospital.⁶¹ A later comment in one of the Dunedin papers revealed that the dissenting jurors had wanted damages of £50.

While the *Press* gave no editorial comment on the case, the *Lyttelton Times* was more concerned with the freedom of the press, and the propriety of the Premier appearing as a lawyer when he was also the Attorney-General.⁶² The editor felt sure that if the offending article had avoided a sensationalist heading and had been written more carefully, the verdict would have gone to the defendants. However, he was highly critical of Stewart’s behaviour, and that of his supporters:

These gentlemen permitted the breach of an important rule of the Hospital. When a charge was made against one of their number, the medical staff of the Hospital refused to enquire into it. When an enquiry was forced, two medical men took part who ought to have abstained. The result of the enquiry was an expression of confidence in a medical man who had contradicted his own death certificate, and had shown a most horrible want of appreciation of the reasons why consultations are prescribed by Hospital rules. During the trial last week it was shown that the best surgeons invariably describe their operations to their assistants, and that no such precaution had been taken in this case. It was shown, too, that “the dignity of the profession” was largely considered superior to the necessity for rules and precautions and fair enquiry. The moral of the trial is, that when medical men behave in this way, juries will not give them more than nominal damages when they bring libel actions into Court, against even the most reckless of writers. Hospital doctors will be forced in future to think less of their dignity, and more of the interests of the patients under their charge.⁶³

Nedwill would have read this with satisfaction, as it gave him something of a moral victory. But most newspaper comment ignored the details of the operation itself, and focused on the issue of libel. The trial had occupied the attention of the reading part of the nation for the past week, and the *Canterbury Times* published a corrected account in forty columns, headlined ‘The Greatest Report of Any Trial Ever Published in New Zealand’.⁶⁴

Stewart was no doubt embarrassed by the derisory damages he had been awarded, and it was reported that he now wanted to sue Nedwill himself for libel, and that counsel had been retained on both sides, but wiser heads seem to have prevailed and no charges were laid.⁶⁵ Nedwill also said no more about a Royal Commission. He had had his day in court, and was no doubt satisfied that his original complaint had been amply justified.

One important consequence of the 1885 hospital inquiry had been the defeat of all but two members of the old hospital board in the elections at the end of 1885. The public had given that board the 'thumbs-down' for its handling of Nedwill's complaint. The new board of 1886 was chaired by the Magistrate Richmond Beetham. Only White and Vincent remained from the old board. The new members comprised F. Bromley, J. Forrester, A. Ivory, F. Jones, R. Moore, C. Louisson and W. D. Wood, all public-spirited men who could be relied on to implement the reforms of record-keeping and management that the jury in the medical libel case had recommended to the hospital.⁶⁶ Dr Robinson was no longer house surgeon, having been dismissed for drunkenness in December 1885.⁶⁷ Prins and Turnbull were no longer able to dominate the board as they had in the past. They too had been rejected by the public of Christchurch.

Nedwill had applied for one of the honorary surgical positions, but in a secret ballot the new board had reappointed Stewart, and appointed Dr John Guthrie snr to the other position. However, Nedwill's friend Dr Frankish had been appointed one of the honorary physicians, alongside Dr Joseph Townend.⁶⁸

A final rumble from the medical libel case came in May 1886 when *The Lancet* published its comments on the case, severely criticising Nedwill for attacking a fellow surgeon through the newspapers and in a court of law. It appeared that the man had died from peritonitis after an operation that had been carried out correctly, even if it had been the first of its kind at Christchurch Hospital, if not in New Zealand. The hospital inquiry had exonerated Stewart, and the matter should have been left to rest there, but Nedwill had written to the Colonial Secretary demanding an official inquiry, which the government had 'wisely' declined. He then told his story to a journalist who had published an extreme and defamatory article. Stewart had won the libel case, but had been awarded just one shilling in damages. *The Lancet's* editors thought it most regrettable that Nedwill had exhibited the medical profession of New Zealand 'in a very unpleasant light'.⁶⁹

Nedwill immediately wrote to the *Lyttelton Times* to point out that none of his correspondence with the hospital board or the Colonial Secretary had been published, so *The Lancet* had remained uninformed of his reasons for taking the steps he had taken.⁷⁰

The medical libel case quickly faded from public attention, replaced by a spectacular Supreme Court case in Christchurch in April 1886 known as 'the severed hand case'. A

man named Arthur Howard had gone missing, and a severed hand with a ring identified by his wife as his was found on the beach at Taylor's Mistake. This was an insurance fraud, but good police work finally tracked down the offender and Howard was convicted and sentenced to two years in prison. Just before his release his wife, the intended beneficiary of the fraud, ran off with another man. Howard followed them to Melbourne where he fell off a tram and was killed. The owner of the hand was never discovered. The hospital dresser Richard Brown was suspected of having taken it from the mortuary, but he vigorously denied any involvement.⁷¹

Turnbull died in 1890, described as 'the father of the medical profession' in Christchurch, which was a little hard on the true pioneers, Dr Donald and Dr Barker. Prins retired from surgery soon after, and devoted himself to his stable of stud racehorses. He died a wealthy man in 1897. McBean Stewart got into trouble with the Canterbury Medical Association in 1888 for marketing his own cough cure, with his name on the labels. This contravened medical etiquette, and he was asked to resign. In 1894 he wrote a highly critical anonymous letter about the management of Christchurch Hospital which provoked an official inquiry. When he was revealed as the author, the hospital board struck him off its list of honorary staff. He then opened a home to treat alcoholics but it was closed after a patient shot himself. Stewart died in 1906.

Nedwill flourished as a surgeon in the 1890s, having spent half of 1891 on leave in London observing top surgeons perform a wide variety of procedures. Several of his own operations were reported in *The Lancet*. In his fifties he took up tennis, and became a significant tennis administrator as president of the NZ Lawn Tennis Association. In his sixties he often went hill walking with his friend Dr Fox, the young superintendent of Christchurch Hospital. Nedwill resigned from surgery in 1906 and had a long and active retirement. He died on 10 April 1920. One obituary remarked that he had retained 'the vigour of youth and the clear mental outlook of a man in the prime of life, nearly to the end'.⁷² His namesake son Courtney Llewellyn Nedwill (1876-1929) became a respected ear, nose and throat surgeon in Christchurch.

APPENDIX

The career of Dr Francis McBean Stewart was the subject of an article in the *New Zealand Medical Journal* in 1977.

Dr Francis O. Bennett was a much-loved consulting physician at Christchurch Hospital until his death on 4 August 1976. He was also the author of the hospital's centenary history, *Hospital on the Avon* (1962) and several historical articles in the *New Zealand Medical Journal*. His last article was published posthumously, in the March 1977 issue. This was entitled 'The Unfortunate Dr McBean Stewart of Christchurch' and covered the medical libel case of 1886, Stewart's marketing of an asthma cure in 1888 with his name on the label, and his anonymous letter of 1894 which prompted the Christchurch Hospital Inquiry of 1895.

Unfortunately, this article was not one of Dr Bennett's best efforts. It is marred by errors and factual mistakes, and has a strong bias of sympathy towards Dr McBean Stewart, matched by a dismissive bias against Dr Courtney Nedwill, whom he describes as 'self-assertive, aggressive' and possibly having 'a paranoid drive'.

Most of the errors are trivial, such as giving Nedwill's date of death as 13 April 1920, when in fact it was 10 April. Bennett refers to the house surgeon Dr Rawdon Briggs Robinson as 'Dr Robertson' throughout. This may have been a mistake in note-taking, or perhaps some of the article was written from memory. Spelling Dr Prins as 'Porins' may be a mistake by the journal, not spotted by its proof-reader. Professor Macewen is spelt as 'McEwan'. Mr Justice Williams has the final 's' deleted from his name. Wakefield's co-defendant Roydhouse has his name changed to 'Boydhouse', but this may be another type-setting error not noticed by the proof-reader.

More serious are errors of fact that tend to paint Nedwill in a negative light. Nedwill was not Christchurch's first medical officer of health: that was Dr Llewellyn Powell, who served from 1877 to 1879. Nor was Nedwill 'highly successful in confusing the Board of Health with technicalities': Nedwill's reports were written in plain English and were aimed at the general public to educate them about the need for better hygiene and sanitation. The board fully supported Nedwill's efforts to improve the health of the city.

It is not true to say that Nedwill 'persuaded the *Evening Press* of Wellington to publish a highly defamatory article based on his own unsupported word'. The newspaper proprietor, Edward Wakefield, had heard Nedwill's description of the hernia operation on the man Strickland, but had also read the proceedings of the hospital inquiry, which included Stewart's own description of the operation. Nedwill wanted Wakefield to raise the matter in Parliament, and he did not know that Wakefield had recently acquired part-ownership of the newspaper. He had nothing to do with writing or publishing the article, and was probably appalled when he saw its extreme and lurid language. Wakefield's motivation was political, to embarrass the government. The 'extravagant

language' which Bennett attributes to Nedwill was the invention of the journalist who wrote the newspaper article.

Bennett claims that 'there was little variation' in the stories told. This is not true. There were differences between Stewart's account at the hospital inquiry and those of Brown and Dr Mickle. Bennett follows Mickle's account, but fails to present Nedwill's version from the libel trial in Dunedin, which is both more detailed and more believable. Thus his presentation of the operation is one-sided.

Bennett fails to discuss the question of the ligatures and the consequent haemorrhage, which Stewart admitted at the meeting of medical staff on 23 December. Yet at the hospital inquiry on 13 January Stewart claimed the cause of death was shock and 'lack of the will to live'. He had also conducted his own post mortem examination at 7 am, when no other member of the medical staff could attend.

Bennett says that 'there were no criticisms' of Stewart's technique, but fails to mention that Professor Millen Coughtrey testified at the trial that Stewart had not followed Annandale's method exactly but had made his own modification, which did not work. The testimonies of Brown and Robinson were patently unreliable, as they were both trying to protect Stewart from criticism. Robinson was administering the chloroform and could not see what was being done.

Bennett quotes Dr Turnbull's adverse comment on Nedwill – 'indifferent as a surgeon ... and about as bad an operator as ever entered the hospital' – without explaining that Turnbull and Prins had been outspoken enemies of Nedwill as medical officer of health ever since the 1880 Royal Commission on typhoid cases at Christchurch Hospital, when they had been shown to have approved false death certificates. There was no mention of the hostility Nedwill had faced from Prins and Turnbull at the January 1885 hospital inquiry, or that the chairman had ended the inquiry abruptly to prevent Nedwill from calling all of his witnesses.

Bennett fails to mention the attempt by Prins to intimidate Nedwill at the start of the hospital inquiry in January 1885. He describes this inquiry as mostly taken up by Stewart and Nedwill quoting textbooks at each other, whereas in fact Stewart regarded textbooks as 'antiquated' and referred to articles by Annandale and others. Most of the inquiry was taken up by witnesses in support of Stewart: Nedwill's witnesses were not all called, and he was denied any further testimony of his own.

The rest of Bennett's article appears to be fairly accurate, concerning Stewart's reprimand by the Canterbury Medical Association for advertising an asthma cure with his name on the label, 'a gross ethical trespass' – he was asked to resign – and his anonymous letter signed 'Tongariro' in 1894 which prompted the Christchurch Hospital Inquiry of 1895. At first Nedwill was suspected of being the author, but at the inquiry McBean Stewart admitted authorship. His name was struck off the honorary consulting staff. However, such was the public's anger over the irregularities revealed at the hospital that Stewart was then elected to the hospital board as a citizen's representative.

He said very little during his three year term, and then withdrew from public life. He died on 17 September 1906.

If Bennett's article were being marked as an undergraduate essay, its lack of balance, its significant gaps, and its spelling errors, would have merited a fail, or a 'return to revise'. Though the jury in the 1886 medical libel case found in Stewart's favour, the derisory award of damages of one shilling suggests that they saw Nedwill's protest as justified, and Stewart's performance as a surgeon in this case as less than competent, as Nedwill had claimed.

The article might have been more accurate in describing Dr McBean Stewart as 'reprehensible' rather than 'unfortunate'.

ENDNOTES

-
- ¹ Dean King, *A Sea of Words* (third edition, 2000), p.123.
- ² Eugene G. Ewing, 'History of the Treatment of Inguinal Hernia', MD thesis, University of Nebraska (1935), p.19.
- ³ Ewing, p.25.
- ⁴ Ewing, p.26.
- ⁵ Thomas Annandale, 'Case in which a reducible oblique and direct inguinal and femoral hernia existed on the same side and were successfully treated by operation', *Edinburgh Medical Journal*, 21:2 (1876), pp.1087-91.
- ⁶ W. M. Banks, 'On radical cure of hernia by removal of the sac and stitching together the pillars of the ring', *British Medical Journal*, I (1882), pp.985-8; C. B. Ball, 'The radical cure of hernia by torsion of the sac', *British Medical Journal*, II (1884), pp.461-2.
- ⁷ W. Macewen, 'On the radical cure of oblique inguinal hernia by internal abdominal perineal pad and restoration of the valved form of the inguinal canal', *Annals of Surgery*, IV (1886), pp.89-119.
- ⁸ Rex Wright-St Clair, *Historia Nunc Vivat*, p.358.
- ⁹ Canterbury Museum, Macdonald Dictionary of Canterbury Biographies, S 756; F. O. Bennett, 'The Unfortunate Dr McBean Stewart of Christchurch', *NZ Medical Journal*, (1977), p.186.
- ¹⁰ David Macmillan, *By-Ways of History and Medicine*, p.375.
- ¹¹ *Ashburton Guardian*, 27 October 1880, p.2; 9 February 1881, p.2.
- ¹² R. V. Fulton, *Medical Practice in Otago and Southland* (1922), p.179.
- ¹³ F. O. Bennett, 'The Unfortunate Dr McBean Stewart of Christchurch', *NZ Medical Journal*, (1977), p.186.
- ¹⁴ *LT*, 25 April 1882, p.4.
- ¹⁵ *LT*, 1 May 1883, p.4.
- ¹⁶ *LT*, 16 December 1884, p.3.
- ¹⁷ Registrar of Births, Deaths and Marriages, Registration Number 1885001350.
- ¹⁸ *Press*, 1 January 1885, p.2.
- ¹⁹ *LT*, 2 January 1885, p.4.
- ²⁰ *LT*, 7 January 1885, p.4.
- ²¹ *Press*, 10 January 1885, p.3.
- ²² *LT*, 14 January 1885, p.5.
- ²³ *Press*, 14 January 1885, p.2.
- ²⁴ Rex Wright-St Clair, *Historia Nunc Vivat*, p.266; Anne Crowther & Marguerite Dupree, *Medical Lives in the Age of Surgical Revolution* (2007), p.273.
- ²⁵ *LT*, 15 January 1885, p.6.
- ²⁶ Rex Wright-St Clair, *Historia Nunc Vivat*, p.195.
- ²⁷ *LT*, 17 January 1885, p.6.
- ²⁸ *LT*, 20 January 1885, p.6.
- ²⁹ *LT*, 26 January 1885, p.5.
- ³⁰ *LT*, 29 January 1885, p.6.
- ³¹ *Press*, 2 February 1885, p.2.
- ³² *LT*, 2 February 1885, p.4.
- ³³ *LT*, 3 February 1885, p.6.
- ³⁴ *Ibid.*, p.1.
- ³⁵ *Ibid.*, p.6.

-
- ³⁶ *LT*, 11 February 1885, p.3.
- ³⁷ *LT*, 12 February 1885, p.3.
- ³⁸ *Press*, 12 February 1885, p.3.
- ³⁹ *LT*, 14 February 1885, p.6.
- ⁴⁰ *Press*, 13 February 1885, p.3.
- ⁴¹ *LT*, 14 February 1885, p.6.
- ⁴² *Press*, 18 February 1885, p.3.
- ⁴³ *LT*, 24 February 1885, p.3.
- ⁴⁴ Cotter Medical History Museum, Canterbury Medical Association Minute Book, 1880-91, ff.58, 61.
- ⁴⁵ *Ibid.*, f.64.
- ⁴⁶ *Ibid.*, f.66.
- ⁴⁷ *Press*, 13 May 1885, p.3.
- ⁴⁸ *Press*, 19 May 1885, p.2.
- ⁴⁹ *Evening Press* (Wellington), 21 May 1885, cutting pasted in the Canterbury Medical Association Minute Book, f.68.
- ⁵⁰ Edmund Bohan, 'Wakefield, Edward', *Dictionary of New Zealand Biography*, II (1993), p.562.
- ⁵¹ Cotter Medical History Museum, Canterbury Medical Association Minute Book, 1880-91, f.67.
- ⁵² *Ibid.*, ff.73-4.
- ⁵³ *LT*, 22 August 1885, p.3.
- ⁵⁴ *Press*, 17 October 1885, p.2.
- ⁵⁵ *LT* and *Press*, 25 March 1886, both pp.5-6.
- ⁵⁶ *LT*, 27 March 1886, pp.5-6.
- ⁵⁷ Dorothy Page, *Anatomy of a Medical School: a History of Medicine at the University of Otago, 1875-2000* (Dunedin, Otago University Press, 2008), p.23.
- ⁵⁸ *LT*, 29 March 1886, pp.5-6.
- ⁵⁹ *Press*, 10 April 1886, p.3; *Daily Telegraph*, 9 April 1886, p.3; *Evening Star*, 9 April 1886, p.2.
- ⁶⁰ *Evening Star* (Dunedin), 1 April 1886, p.4.
- ⁶¹ *LT*, 30 March 1886, p.5.
- ⁶² *LT*, 31 March 1886, p.4; *New Zealand Herald*, 3 April 1886, p.5.
- ⁶³ *LT*, 29 March 1886, p.4.
- ⁶⁴ *Star* (Christchurch), 2 April 1886, p.2.
- ⁶⁵ *LT*, 3 April 1886, p.3.
- ⁶⁶ *Press*, 4 February 1886, p.3.
- ⁶⁷ *Press*, 3 December 1885, p.2.
- ⁶⁸ *Ibid.*
- ⁶⁹ *LT*, 21 July 1886, p.3.
- ⁷⁰ *LT*, 22 July 1886, p.6.
- ⁷¹ G. W. Rice, *Christchurch Crimes and Scandals, 1876-99* (Christchurch, Canterbury University Press, 2013), pp.125-43.
- ⁷² *Press*, 12 April 1920, p.6.

BY THE SAME AUTHOR

- Black November: the 1918 Influenza Epidemic in New Zealand* (1988)
- Ambulances and First Aid: St John in Christchurch 1885-1987* (1994)
- Christchurch Changing: an illustrated history* (1999; second edition 2008)
- Heaton Rhodes of Otahuna* (2001; second edition 2008))
- Christchurch in the Nineties: a chronology* (2002)
- Lyttelton, Port and Town: an illustrated history* (2004)
- Rhodes on Cashmere: a history of the Rhodes Memorial Convalescent Home, 1886-1996*
(2005)
- Black November: the 1918 Influenza Pandemic in New Zealand* (enlarged & illustrated
second edition 2005)
- The Life of the Fourth Earl of Rochford (1717-1781): Eighteenth Century British Courtier,
Diplomat and Statesman* (2010)
- All Fall Down: Christchurch's Lost Chimneys* (2011)
- Christchurch Crimes, 1850-1875: Scandal and Skulduggery in Port and Town* (2012)
- Christchurch Crimes and Scandals, 1876-1899* (2013)
- Victoria Square: Cradle of Christchurch* (2014)
- Cricketing Colonists: the Brittan Brothers in Early Canterbury* (with Frances Ryman,
2015)
- Black Flu 1918: the story of New Zealand's worst public health disaster* (2017)
- The Life of Leslie Averill MD* (with Colin Averill, 2018)
- That Terrible Time: Eye-witness Accounts of the 1918 Influenza Pandemic in New
Zealand* (2018)
- A Scientific Welsh Eye-Surgeon: the Short Life of Llewellyn Powell MD, Christchurch's
First Medical Officer of Health* (2020)
