

# ***Death of Dora Cushman***

August 14, 1897



Dora Cushman

At about 5:00 o'clock Sunday morning August 15, 1897, fifteen year old Dora Cushman of Lincoln, Vt. was found dead by her brother Arthur E. Cushman behind bushes on the bank of a brook in the pasture of Lester Bryant, about 1600 feet from her home. It appeared she left home Saturday afternoon about 5 o'clock to pick blackberries, and when she did not return home that night, search parties were organized.

The grass was found trampled in a place about 30 feet from where the body was found, as if there had been some sort of struggle there. The hiding of the body appeared to be very secure as the searching party had passed within four feet of it without seeing it before her brother found her.

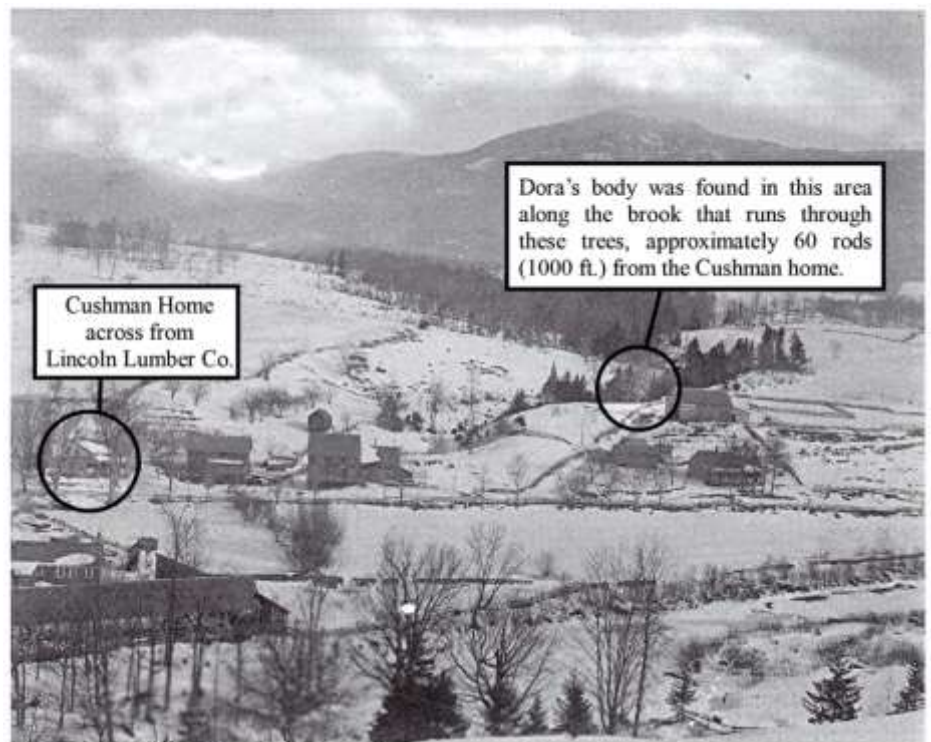
Dora Cushman who was born in January 1882 was described in newspaper reports as the bight and attractive daughter of Dr. A. J. Cushman of Lincoln. (She was also the daughter of Ella Birchard Cushman <sup>RD</sup>). Smith Davis, age 26, an employee of the Lincoln Lumber Company, had been paying attention to Dora for about a year, and as he suddenly disappeared the same Saturday afternoon as Miss Cushman, suspicion pointed to him as the one criminally responsible for her death.

It was reported that Smith Davis came from the vicinity on Saturday night where the body was later found on Sunday morning and obtained \$25.00 from his employer and then returned to the woods, after which he came out a second time and started for Bristol. By Sunday night he had made his way to the home of his uncle, George Butterfield, in Manchester, New Hampshire.

On Monday morning he told his uncle his story of what had happened to Dora. He said he had been intimate with the young girl, and that one day not long ago they both became aware that she was likely to become a mother.

According to Davis he thought very much of Dora, and was willing to make her his wife. When she had told him of her condition he expressed a desire to place a wedding ring on her finger. Davis said she told him she did not wish to marry and he was worrying a great deal too much about what was, after all, a very simple matter, and talked in a very brutal manner about the affair.

Finally he said, she told him to procure a certain remedy for her, and promised that this would be the last he would hear about the matter. Davis agreed and got the remedy she wanted. The next he



heard from Dora was on the day of her death. On Saturday he said he received a note from Miss Cushman at the hotel where he stayed, stating that she had the remedy with her and that she was going to a certain berry pasture. She wanted him to accompany her, and the two set off for the pasture.

At the berry pasture, Davis told his uncle he walked about 20 feet away from Dora. At that time she attempted to secure an abortion, and died instantly. He said he heard no groan, or sound of any kind.

Davis said he was paralyzed by the turn the affair had taken and that his first thought was that of flight. He shaved off his moustache and left immediately for his uncles in Manchester.

When Davis had finished telling his story, his uncle advised him to return to Bristol and turn himself in to authorities. Davis said he would, but instead he went to Cambridge to the home of his father.

### **Smith Davis Arrested for Murder of Dora Cushman**

Smith Davis was arrested at the home of his father on Tuesday August 17, 1897. At this time Davis claimed Dora's death was caused by an '**instrument**' and not a '**remedy**' as he had told his uncle. He was taken to the Vergennes jail. A hearing was held in Holley Hall in Bristol. The indictment against Davis contained 5 counts, alleging, in substance, that he did "kill and slay" Dora E. Cushman in Lincoln Aug. 14, 1897; that he advised and assisted in attempts at abortion and that he used and caused to be used certain instruments and drugs, including a speculum, a catheter and Oil of Pennyroyal. (*Oil of Pennyroyal was an extremely toxic poison that was used in abortions and would cause an extremely painful and quick death if administered in too large a dose.*<sup>RD</sup>)<sup>[1]</sup> Davis was charged with murder and transferred to the jail in Middlebury where he was held on \$7000.00 bail until his trial held in County Court in February 1898.

By August 28, 1897 newspapers reported there were 5 men in 4 separate jails in connection to this crime against Dora Cushman.

Besides Smith Davis, **Dr. Hiram Jocelyn** a dentist was arrested for supplying instruments to Davis that Miss Cushman used causing her death. These instruments were reported to have been a speculum and catheter.

Also arrested was **Norman Henry**, who was known as a catarrh doctor. (*Henry was also known as 'Dr. Smith'.*<sup>RD</sup>) Henry was arrested as an accessory. At trial he testified that Dora Cushman came to him about three weeks before her death telling him she thought she was pregnant and had asked for advice. He told her he had none and only gave her catarrh medicine. (*Catarrh is defined as an excess of thick phlegm or mucus in one of the airways or cavities of the body.*<sup>RD</sup>)

**William Brittell** was charged as an accessory before the fact. He had been held as a witness prior to being charged. Brittell had made a confession at the time of Cushman's death that he had given Smith Davis '**Cedar Leaf Oil**' to produce an abortion and that she died in three minutes after taking the dose.



*(Cedar leaf oil or Oil of Cedar was used to cause contractions of the uterus, producing spontaneous abortions. It was supposed to kill the fetus, but if the dose taken was too much it could cause almost instant death to the mother. <sup>RD</sup>) [1]*

**Herbert Poland** who had been working in Warren was arrested as an accessory in White River Junction and jailed in Montpelier. The February 10, 1898 Bristol Herald reported his indictment charged him with furnishing ‘Oil of Pennyroyal’ and assisting in the alleged abortion. Poland had been arrested on information supplied by Brittell. Brittell claimed Poland had given him a reddish colored liquid medicine to give



to Davis. Brittell also claimed Poland gave him express directions for administration, which he was in turn to communicate to Davis.

In September 1897 Herbert Poland was also charged with criminal conduct adultery with Dora Cushman’s sister, Mrs. Vivian Barrett.

Although Jocelyn, Henry, Brittell and Poland were all charged, Smith Davis was the only defendant that ever stood trial in the Dora Cushman case.

### **Trial of Smith Davis**

The trial against Smith Davis got underway in County Court in Middlebury, Vt. on February 10, 1898.

Many witnesses from Lincoln testified to the death scene, Davis’s and Cushman’s relationship and their actions before her death. The following is testimony from some of the people called in the case.

The testimony of William Brittell, who had earlier been arrested but was released after he turned state’s evidence, revolved around a small bottle filled with liquid he had obtained from Poland for Davis, the nature of which he was ignorant.

Norman Henry testified to playing cards with Davis on the Saturday forenoon and afternoon. He also testified that a girl whom he supposed to be Dora Cushman came to him about three weeks previous and told him that she thought she was pregnant and asked his advice, to which he replied that he had no advice to give in the matter. He gave her a dose of his catarrh remedy and that was all he saw of her.

Dr. Jo H. Linsley of Burlington testified to the findings of the autopsy he performed on Dora Cushman that was held at the office of her father Dr. Cushman. Dr. Linsley reported that there were bloody marks on her skirt and blood in her hair behind her ear, but no marks of external violence. A male fetus of about three months was found. The vital organs appeared to be in normal condition. The doctor said that some slight irritant had probably been used, but after a microscopically examination he was not prepared to positively assign the cause of death.

Dr. Anson Norton who was present at the autopsy said we found no evidence of an attempt of abortion and no evidence of a mechanical operation to produce abortion was apparent. Dr. Norton was also unable to give the cause of death.

Professor E. J. Bartlett of Dartmouth College testified at length in regard to a chemical analysis of the contents of Cushman's stomach, but he found no indication of poison.

Dr. A. P. Grinnell of Burlington said that he had carefully considered the case and gave it as his opinion that death resulted from shock due to drugs combined with the use of the speculum in the hands of an inexperienced person and terror due to her condition.

George Thayer, the vice-president of the Lincoln Lumber Co., identified a pasteboard box as the one he found in Davis's trunk and which contained the instruments supposedly used.

W. W. Wilson, a druggist from Bristol testified that he sold a surgical instrument to Dr. Jocelyn two days before the crime. He told how the instrument was wrapped up and placed in the pasteboard box that was found in Smith Davis's trunk by Thayer on Sunday, the day after Dora's death.

Dr. Jocelyn, on advice of counsel, refused to testify when called.

Lester Bryant testified that he lived within 20 rods of the Cushman House and that the body was found in his pasture. He was also present when the body was found. He said the grass was trampled down in the vicinity where the body was recovered, but there had been no cattle or horses in that lot that would have trampled down the grass and bushes.

Vivian Barrett, sister of Dora, gave in her testimony little light on the case. She stated that she had seen Dora and Davis together. It was reported that the questions put to her contained implications against her own character. She was believed to have had more knowledge of the matter than she divulged on the stand.

Smith Davis's lawyers defense was to the effect that Davis had been industrious and devoted to his father and mother previous to his acquaintance with the Cushman's: that before his acquaintance began, Herbert Poland, a married man, had been intimate with Dora Cushman and her married sister, Vivian Barrett; that Poland was the person responsible for Dora's condition, and that Poland and Mrs. Barrett conspired to throw the responsibility upon Davis; that Davis wished to marry Dora, but she refused; that at her request he procure certain instruments, the use of which he did not understand; that when attempting to use the instruments for examination, as Davis supposed, the girl fell back dead; that Davis was at



first so frightened that he fled, but soon returned to give himself up and to face the consequences.

Near the end of the trial Vivian Barrett was recalled, and the defense sought to make her admit that she knew that Herbert Poland and not Davis was responsible for Dora Cushman's condition, and that she, personally, had planned to make a scapegoat of Davis for the alleged reason that she herself had been unduly intimate with Poland. Her counsel, however, objected to her answering specific questions about her relations with Poland, and the objections were sustained.

Herbert Poland who had also been indicted did not testify at Davis's trial.

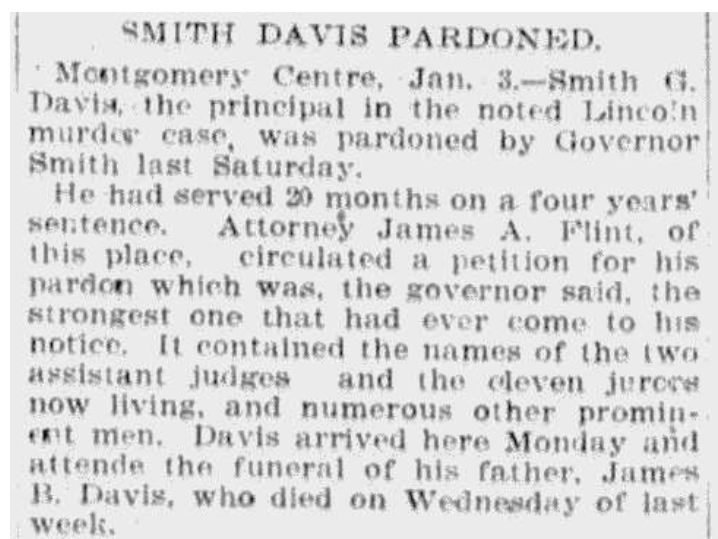
On Saturday February 19, 1898 the case went to the jury. After four hours the jury came back with a verdict of guilty to the fourth indictment only. The count on which Davis was found guilty alleged 'that he assisted and counselled Dora Cushman to use certain instruments in an attempt to bring about an unnatural result'.

On March 3, 1898 Smith Davis was **sentenced to four years hard labor** in the state's prison at Windsor, Vt.

In an interview Davis is said to have stated that already the people of Lincoln were talking of petitioning the governor for a pardon. He asserted his belief that the public had been with him from the start, but he did not say where he got this impression. He also thought that Herbert Poland and Mrs. Barrett were largely responsible for his troubles.

### Davis Pardon

On January 1, 1900 Smith Davis was granted a full pardon by Governor Edward C. Smith. Prior to being pardoned Davis had served twenty months of his four year sentence before being paroled. Attorney James A. Flint, Montgomery Center, had circulated a petition for his pardon which was, the governor said, the strongest one to ever come to his notice. It contained the names of the two assistant judges and the eleven jurors still living from the trial, and numerous other prominent men.



SMITH DAVIS PARDONED.  
Montgomery Centre, Jan. 3.—Smith G. Davis, the principal in the noted Lincoln murder case, was pardoned by Governor Smith last Saturday.  
He had served 20 months on a four years' sentence. Attorney James A. Flint, of this place, circulated a petition for his pardon which was, the governor said, the strongest one that had ever come to his notice. It contained the names of the two assistant judges and the eleven jurors now living, and numerous other prominent men. Davis arrived here Monday and attended the funeral of his father, James B. Davis, who died on Wednesday of last week.

Smith Davis returned to his home town of Montgomery Center, Vt. He died in 1959 and is buried in the Montgomery Center Cemetery.

Dora Cushman was buried in Briggs Hill Cemetery with her parents.



[1] The following information on ‘Oil of Cedar’ and ‘Oil of Pennyroyal’ taken from Contraception and Abortion in Nineteenth-century America.

Some remedies used were out-and-out poisons; women presumably took them hoping desperately to kill an unwanted fetus without killing themselves. Taking poisons to kill the invading ill humour causing an illness was an established part of medical theory in the eighteenth and nineteenth centuries, so it should not be surprising that women tried such dangerous poisons as aloes, oil of savin, oil of tansy, **oil of cedar**, **oil of pennyroyal**, cottonroot compound, or teas made of rue, tansy, and nightshade to abort an unwanted pregnancy.

#### Dora Cushman’s Death Record

| 17 DEATH—FEMALE                         |                            |              |        | P.63                              |
|-----------------------------------------|----------------------------|--------------|--------|-----------------------------------|
| Full Name of Deceased Cushman, Dora     |                            |              |        |                                   |
| Usual Residence                         |                            |              |        |                                   |
| If in Hospital or Institution, its Name |                            |              |        |                                   |
| Color                                   | Age 15 Yrs. 7              | Mos. 4       | Days   | Single Married Widowed Divorced 8 |
| Occupation                              |                            |              |        |                                   |
| Birthplace                              | Lincoln, Vt.               |              |        |                                   |
| Father's Name                           | A. J.                      |              |        |                                   |
| Father's Birthplace                     |                            |              |        |                                   |
| Mother's Maiden Name                    | Ella                       |              |        |                                   |
| Mother's Birthplace                     |                            |              |        |                                   |
| Date of Death                           | 1897                       | Month August | Day 14 |                                   |
| Disease Causing Death                   | Accidental                 |              |        |                                   |
| Contributing Disease                    |                            |              |        |                                   |
| Medical Attendant                       | Labelle                    |              |        |                                   |
| Town                                    | Lincoln, Vt. Moses B. Gove |              |        | Town Clerk                        |

Information compiled from records and old newspapers  
by  
Reg Dearborn  
July 2017