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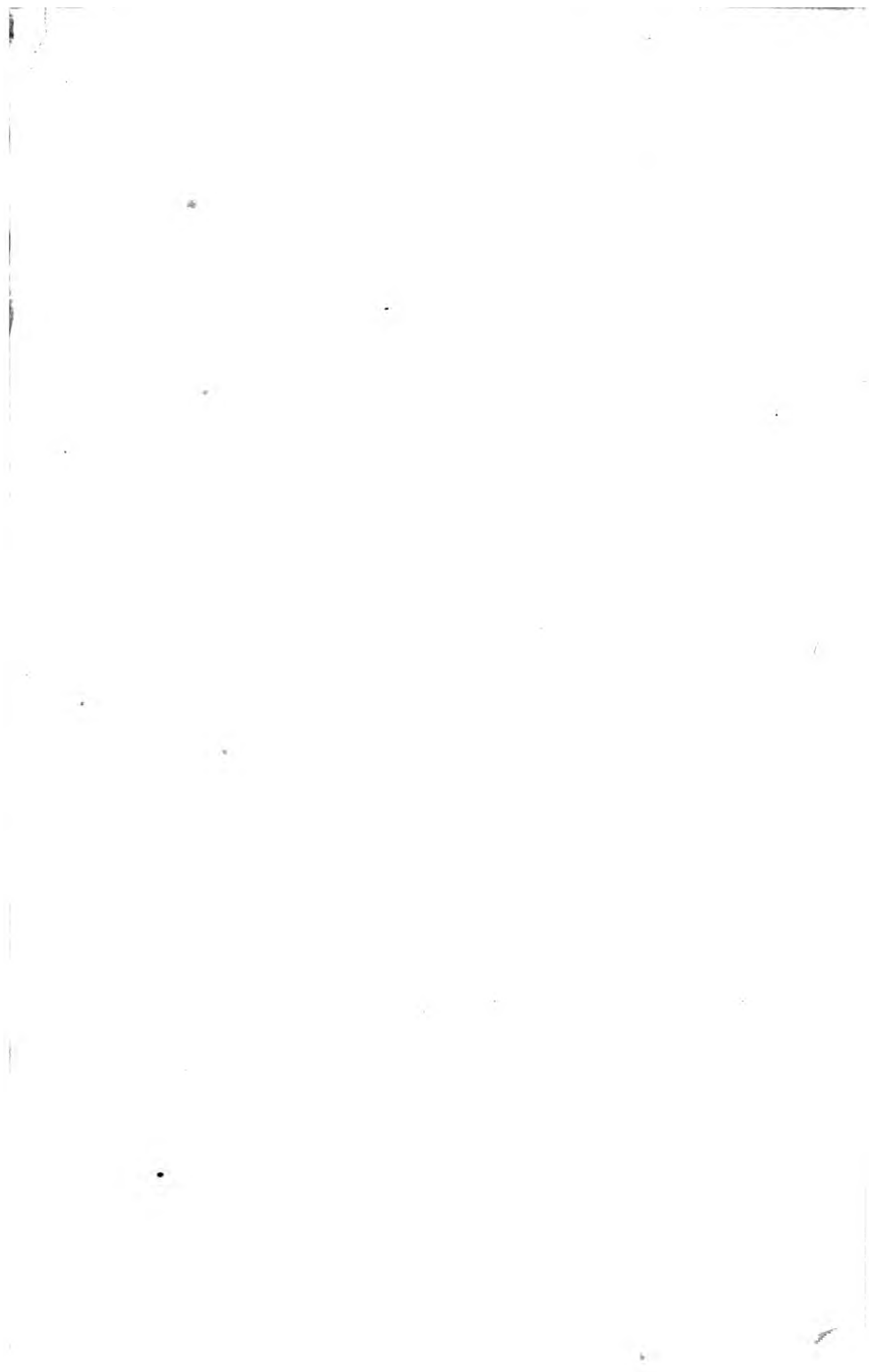
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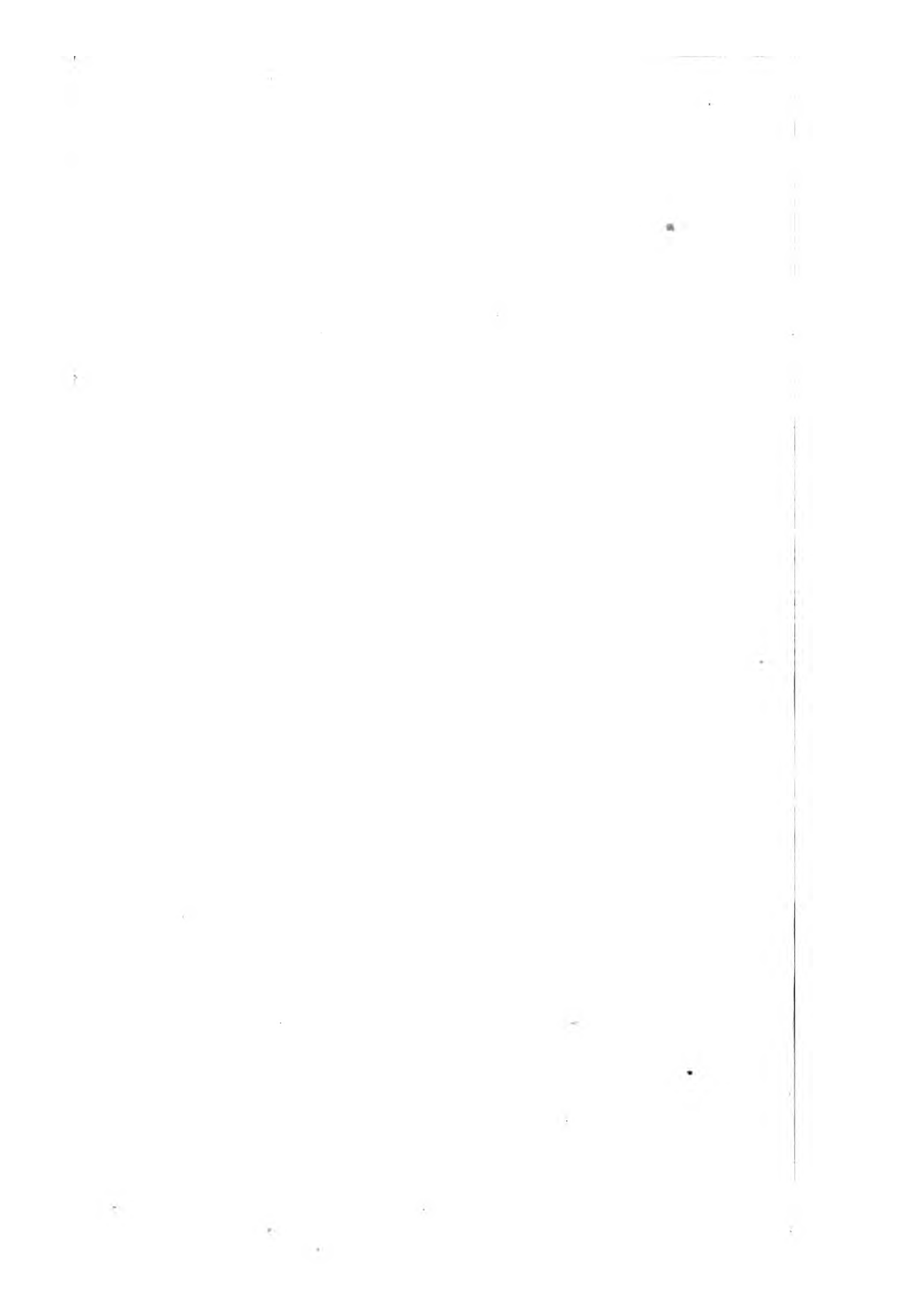
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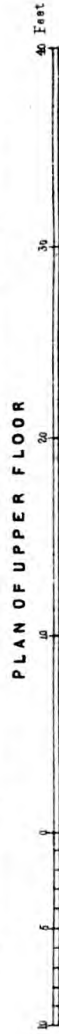
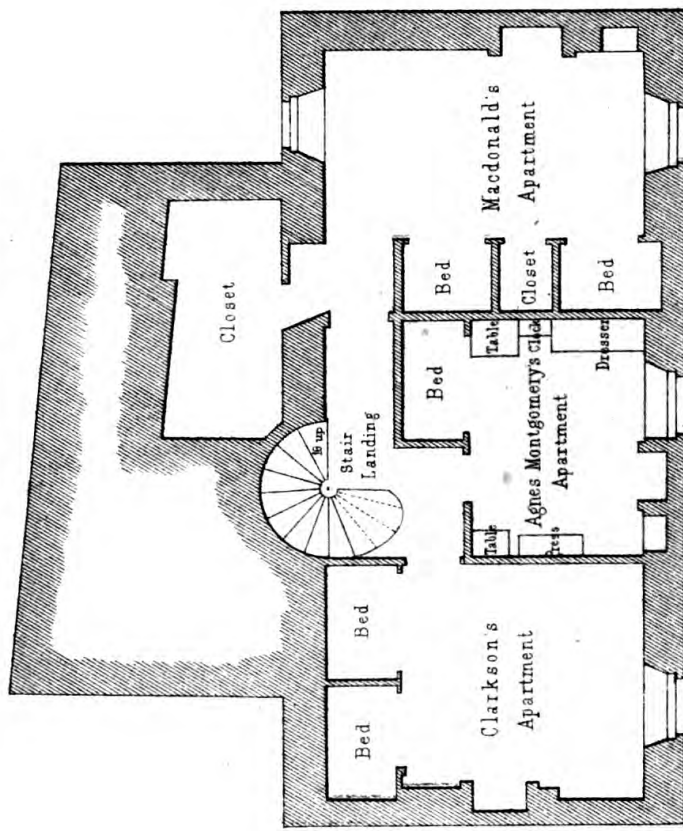
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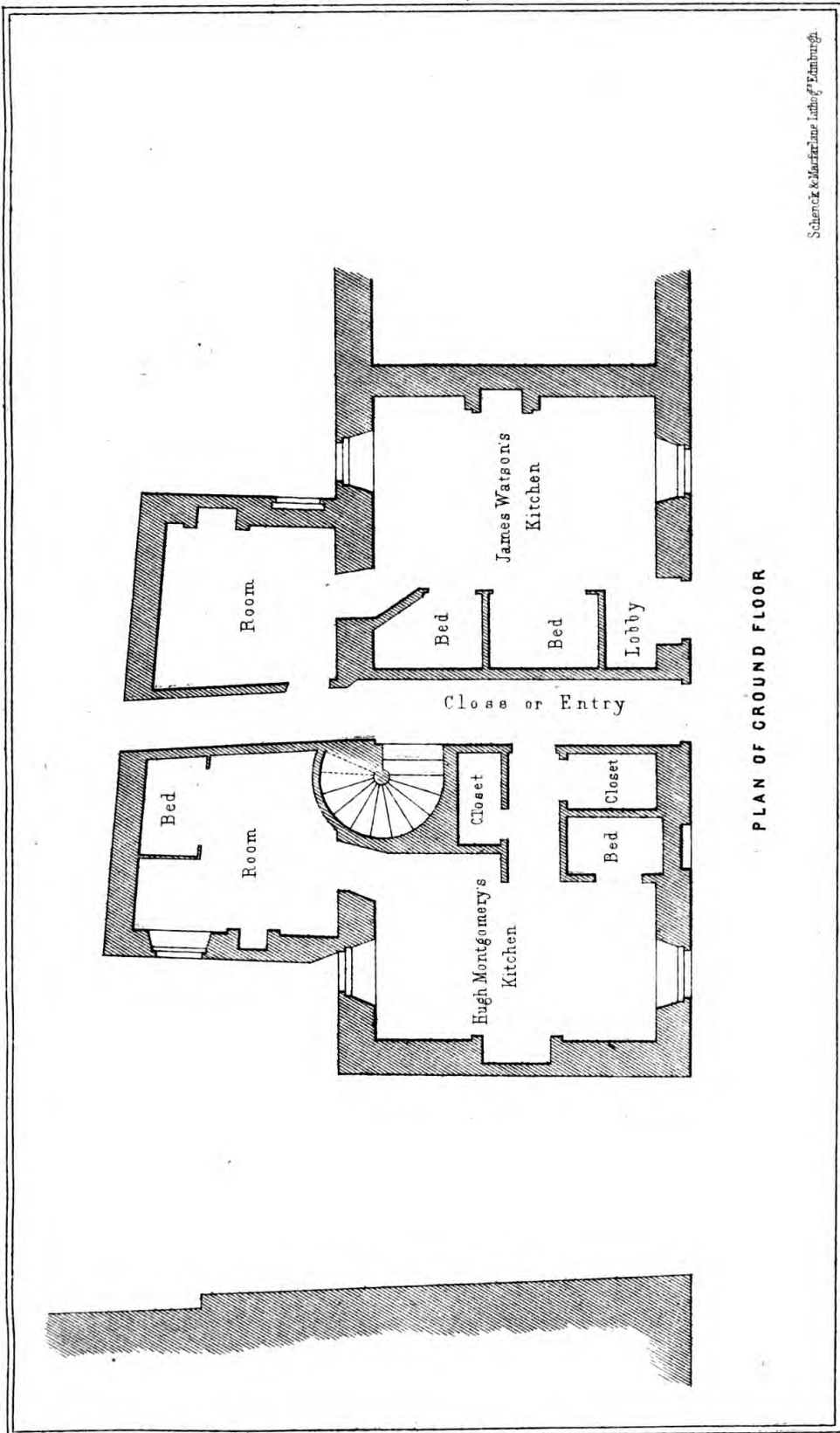






PLAN OF THE HOUSE IN THE VILLAGE OF EAGLESHAME, OCCUPIED BY THE DECEASED
 AGNES MONTGOMERY & OTHERS.





PLAN OF GROUND FLOOR

Schenck & Macfarlane, Architects, Edinburgh.

REPORT OF THE TRIAL

OF

JOHN THOMSON *ALIAS* PETER WALKER

BEFORE

THE CIRCUIT COURT OF JUSTICIARY AT GLASGOW

22^D TO 24TH DECEMBER 1857.

FOR THE MURDER OF AGNES MONTGOMERY BY PRUSSIC ACID, AND
SUBSEQUENT ADMINISTRATION OF PRUSSIC ACID TO AGNES
STENHOUSE OR MASON AND ARCHIBALD MASON.

WITH INTRODUCTORY OBSERVATIONS

ON

THE MEDICO-LEGAL POINTS OF THE CASE.

BY HUGH COWAN, ADVOCATE.

EDINBURGH: THOMAS CONSTABLE AND CO.
HAMILTON, ADAMS, AND CO., LONDON.

MDCCCLVIII.



CONTENTS.

PLAN OF AGNES MONTGOMERY'S HOUSE IN EAGLESHAM.

	PAGE
INTRODUCTORY OBSERVATIONS,	5

FIRST DAY.

Indictment,	17
Inventory of Productions for the Prosecution,	21
List of Witnesses for the Prosecution,	24
List of the Jury,	28

EVIDENCE FOR PROSECUTION.

1. Robert Robertson Glasgow,	28
2. John Guy,	28
3. James Jamieson Lamb,	28
4. Henry Glassford Bell,	29
5. George Gray,	29
6. Janet Montgomery or Watson,	29
Question as to the admissibility of the little girl's statement to her mother delayed,	32
7. James Watson,	33
8. Agnes Young or Montgomery,	34
9. William Young,	34
10. Janet M'Gregor,	35
11. Catherine Cochran,	35
12. Janet Dollar,	35
13. David Clarkson,	36
14. Isobel or Bell Law,	36
15. Elizabeth Blackwood or M'Donald, Agnes Montgomery recalled,	37 38
16. Edward Hinshelwood,	38
17. Marion Montgomery or Young,	38
18. James Fulton,	38
19. William Muir,	38
20. Mary Gemmell,	39
21. Janet Hogg,	39
22. James Kean,	39
23. John Morris,	39
24. Janet Walker or Clarkson,	39
25. Hugh Montgomery,	39
26. Margaret Montgomery or Cameron,	39
27. John Watson,	39
28. James Arneil,	40
Adjournment,	40

SECOND DAY.

Question as to the admissibility of the little Girl's evidence,	40
Question as to the admissibility of her statement to her Mother,	41
Prisoner's First Declaration read,	42
29. John Ferguson,	42
30. Adam Gall,	43
31. George Stirling,	43
32. James Kerr Young,	44
33. William Cameron,	44
34. William Montgomery,	44
35. William Montgomery,	44
36. Cauvine Spittal Alston,	44
37. Robert M'Farlan,	44
38. Isabella Montgomery,	44
39. William King,	44
Mrs. Watson recalled,	44
40. Janet Young or Wallace,	45
41. Mary Donald,	45
42. James Bell,	45
43. James Fraser,	45
44. Alexander Christie,	45
45. Robert Hunter,	45
46. William Bryson,	46
47. James Jackson,	46
48. Agnes Stenhouse or Mason,	46
49. Archibald Mason,	47
50. George Miller,	47
51. John Hogg,	47
52. Margaret Fleming or Stewart,	48
53. Robert Waddell,	48
54. Thomas Erskine,	48
55. John Grant,	48
56. Archibald Snedden,	48
57. John Smith,	48
58. Isabella Ross,	48
59. Robert M'Laurin,	48
Robert Hunter recalled,	48
60. George Gray,	48
61. Hugh Kent,	48
Prisoner's Second Declaration,	48
62. David Scott,	49
63. Robert Hamilton,	50
64. William Murray,	50
65. Dr. Daniel M'Kinlay,	50
66. Dr. Walter Boyd M'Kinlay,	60
67. Dr. Douglas Maclagan,	60
Adjournment,	65

THIRD DAY.

68. Professor Penny,	66
Speech of Mr. Maitland Heriot, Advocate-Depute,	68
Speech of Mr. Moncrieff for the Prisoner,	82
The Lord Justice-Clerk's Charge,	94
The Verdict of the Jury,	102
The Lord Justice-Clerk's Address to the Prisoner, in pronouncing Sentence,	102
Sentence,	103

INTRODUCTORY OBSERVATIONS.

THE trial of John Thomson, *alias* Peter Walker, for the murder of Agnes Montgomery, which is reported in the following pages, is the first trial in Scotland for poisoning with prussic acid, and the third case in Britain where a conviction has been obtained in a trial for murder by means of this poison, the two former being that of Captain Donellan, for the murder of Theodosius Boughton, by means of cherry-laurel water (Beck's *Medical Jurisprudence*, p. 1015, and sep. rep.), and that of Tawell, for the murder of Sarah Hart, (*Northern Journal*, II. 396.) It is not to be wondered at, then, if the facts brought out in the course of this trial should tend to throw some new light upon the subject of a poison, which, from the comparative rarity of its use, has not received that attention which has been bestowed upon the investigation of some others. It has therefore occurred to me, that it would be of some use to eliminate from the evidence the principal points of interest in a medico-legal point of view, and to compare this case in those respects with others.

1. In regard to the dose taken, it will be observed that the quantity purchased by the prisoner was two drachms of acid, on the morning of the death. The fragments of the phial in which it was contained were found immediately after, in the garden behind the house, crushed under the foot, and nothing appeared to have been spilt. It is in evidence that the whole two drachms might very easily be swallowed in a tumbler of beer, such as that found in deceased's house, and the prisoner has, since his conviction, stated that he gave her the whole quantity, and that she swallowed it all. The acid sold to the prisoner was afterwards analyzed by Drs. Maclagan and M'Kinlay, and found to contain a little under three per cent. of pure anhydrous acid. I use this under correction of a subsequent analysis made by the Doctors M'Kinlay. The dose taken by deceased would therefore be from $3\frac{1}{4}$ to $3\frac{3}{4}$ grains of pure acid.

2. The length of time which elapsed between the commencement of the illness and the death, is a very remarkable circumstance in this case. Deceased died at five minutes from six, as spoken to by more than one of the witnesses. In fixing the time of commencement, it will be remarked, that Fulton and Muir, who called for the prisoner that afternoon at Watson's, came, as Mrs. Watson says, at a quarter past five, but her husband, who had looked at the clock, says it was ten minutes past five. Muir and Fulton then went up to the house of deceased, and heard the moans ; but the illness had commenced some time before, for Clarkson, who heard the fall on the floor, and who saw the prisoner a minute after the fall come out of the room, and return and listen for half a minute at the door, had gone down after him to the garden to get water, and returned to his own house in two or three minutes, before Muir and Fulton came up the stairs. Assuming, then, that the fall was the first symptom, and occurred immediately after swallowing the poison, we will not be far wrong in saying, that it occurred about five minutes before Muir and Fulton came up, and therefore about five minutes past five. The time of the illness will thus have been fifty minutes, or rather more—a time that is perhaps unprecedented in any previous case. Most fatal cases have terminated within a very few minutes ; and it is the opinion of Dr. Christison and others, that if the patient survive forty minutes, he will generally recover. In Tawell's case, the time was less than half an hour, and in that of the Parisian epileptics, it was from fifteen to forty-five minutes. In an interesting case reported by Casper (*Handbuch der Gerichtlichen Medizin*, p. 434), it must have been almost instantaneous, for the woman was found lying on the floor, with a cucumber in one hand, and a water caraffe in the other. There is a case, he reports, of poisoning by cherry-laurel water, where death did not intervene till five hours after (p. 431). In West's case, more particularly to be spoken of afterwards, the time, as estimated by Mr. Nunneley, was three quarters of an hour, but the other evidence would seem to point to thirty-five or forty minutes (*Prov. Med. and Surg. Journal*, 23d July 1845). Can it be, that the fact of Agnes Montgomery being a large woman—about six feet high, may, in part, account for the length of time which elapsed ?

3. The symptoms exhibited by deceased prior to death will be found very well detailed in the evidence of Mrs. Watson. In regard to the swelling of the face, 'swelled like to burst,' reference may be made to a case reported by Mr. Edward Bishop in the *Chemist* for 1848, of a gentleman who had swallowed a grain and a half of real acid, but who recovered. There, when first seen, the face was

quite black, but when Mr. Bishop saw him five or six minutes after, it was very pale, quite bloated and swollen. The description of the symptoms detailed from their own experience by Mrs. Mason and by Dr. Walter M'Kinlay, are instructive, as showing the effects of a dose less than fatal, and of recovery from the effects of the vapour. The evidence of Mrs. M'Donald in regard to the smell she felt in coming into the room is interesting. She does not say it was the smell of bitter almonds: but it was a peculiar smell, and affected her nostrils and the back of her throat. One of the witnesses says that when the Doctor came in, deceased gave a louder moan, and they thought that, perhaps, she had recognised him. Compare this with the statement of Dr. Nunneley in West's case:—'I shook him by the shoulder and shouted in his ear, but whether he heard me or not, I cannot speak positively. I felt at the moment half inclined to think that at the instant he recognised my voice, but I am by no means certain that he did so.' It might have been a question of some interest, but for the confession of the prisoner, whether it was possible for the deceased after the fall spoken to by Clarkson and Law, to have raised herself to the chair on which she was found; and on this point West's case, as afterwards quoted, may afford some light. The swelling in the chest, spoken to by some of the witnesses, appears to have been a mistake. Dr. Maclagan explains it as probably convulsive breathing, but the real swelling occurred after death. This case likewise affords a confirmation, if that were needed, of the opinion that a shriek or scream is not the invariable or even the usual accompaniment of poisoning by prussic acid. In addition to the symptoms described, little Janet says, that immediately on taking the beer, Aunt Aggie put her hand into her mouth, and brought on vomiting—she brought up something, and Jack 'dighted it up.'

4. Decomposition appears to have set in very rapidly. The body became very much swollen before the coffin-lid was screwed down, and by that time the smell in the room was very great. A quantity of stuff had by that time come from her mouth, and made its way through the covering. Before the coffin was screwed down the face had become very black, and was much altered. I am aware that it is the effect of sudden death, *cæteris paribus*, to accelerate decomposition, and that early decomposition is not considered peculiar to death by prussic acid, but in this case it appears to have been particularly early. On this point I may refer to two cases reported by Casper (*Handbuch*, pp. 431, 432). One of them by cherry-laurel water. In No. 1, examined twenty-four hours after death, putrefaction appeared to have made rapid progress. In No. 2, ex-

amined two days after death, but in the cold of December, putrefaction had advanced most uncommonly quickly, even to the separation of the outer cuticle. In No. 3, examined the third day after death, in November, the body was quite fresh, but it was in a time of hard frost, the mercury standing at 0° to 5° R. On this point, too, the evidence of Dr. M'Kinlay is valuable in regard to the *post mortem* appearance. He says,—‘Agnes Montgomery’s face was very dark—the darkest ever I saw. I noticed it as something very remarkable. I have never seen a face so dark.’ And again,—‘The lungs were not crepitant. I attribute that to decomposition. Decomposition of the lungs is rarely so far advanced, so soon after death. I considered it very remarkable.’ In West’s case, there was not the least perceptible change at twenty-seven hours after death, and when interred, the fifth day after death, nothing unusual was observed. But as it was summer, and some of the friends were anxious, some packets of dry chloride of lime had, on the second day, been placed in the coffin, which may have retarded putrefaction. The truth is, that prussic acid appears in this, as in so many other particulars, to vary in its action, perhaps affected in some degree by the person who is the subject of it.

5. Another point of interest is the modifying odour which is spoken of by all the doctors who attended the *post mortem* examination, as having been felt on opening the stomach. Both the Drs. M'Kinlay agree in saying that it was the odour of bitter almonds or prussic acid, but very faint. In the three weeks’ case referred to by Dr. Maclagan, hydrocyanic acid of a very powerful odour was obtained on treating the contents of the stomach with hydrochloric acid. It has constantly been observed up to seventeen, eighteen, or twenty-four hours, or even two or three days after death. One of the latter I may quote particularly, as given by Casper (*Handbuch*, p. 434). It was the case of a married woman, forty-three years of age, a drunkard, and death was occasioned principally by prussic acid, but also partly by essential oils. The examination was two days after death. On the removal of the skull-bones, the clearly perceptible smell of bitter almonds immediately affected all present. On laying aside the *dura mater*, the smell of bitter almonds, cloves, and other spices, was easily perceived. The cavities of the chest, when opened, exhibited a marked odour of bitter almonds and spices. The smell of almonds was observable in the most remarkable way in the normal and empty œsophagus. The stomach did not appear, externally, to be abnormally softened. On its dissection, an uncommonly strong smell of bitter almonds, almost stupifying every one, burst out. The case is interesting, too, as

one in which prussic acid was clearly (*deutlich*) detected in the blood. In Chevallier's case (*Annales d'Hygiène Publique*, ix. 337), the smell of bitter almonds was detected in the contents of the stomach, three (or seven as others state it) days after death, but only after distillation. It was so also in Tawell's case, where the analysis was made eighteen hours after death. In West's case, five and a half hours after death, the air was loaded with hydrocyanic acid from the stomach, and also from the abdomen; and again, twenty-three days after death, Mr. West felt the smell of prussic acid.

6. But passing from the smell we come to what is perhaps a more reliable fact in the case, the actual discovery of prussic acid in the body seventeen days after death. Agnes Montgomery died on 13th September, and was buried on the 17th. The body was exhumed on 30th, and all the parts were then carefully put into bottles and sealed up. On the 5th October the Drs. M'Kinlay, operating upon the *whole* stomach, succeeded in obtaining unequivocal evidence of prussic acid by all the three tests. The results obtained in their analysis of the spleen were not so great as to enable them very confidently to affirm that it was present there, but they were such as, in the absence of the unequivocal results from the stomach, would have justified them in affirming the great probability of its presence; and by a careful consideration of their Report it will be seen that their experiments with the spleen are strongly confirmatory of Dr. Maclagan's subsequent more successful analysis on 10th November. I have stated the time at seventeen days after death, and I do so on this obvious ground, that the organs were then removed from the body and carefully sealed up in bottles, after which whatever prussic acid was then in the body could not fail to be detected, however long the analysis of the contents of the bottles might be delayed. This is, however, with two exceptions, so far as I am aware, the longest time after death at which this very volatile acid has been detected. The first of these is a most curious case reported by the Messrs. Herapath (*Chemist*, 1854, p. 321). It was the case of a young lady, who, it was suspected, had poisoned herself with prussic acid. It was determined, at the expiry of *two months*, that the body should be exhumed and the viscera subjected to analysis. 'On examining the contents of the stomach,' say the Reporters, 'and intestines, no trace of prussic acid could be discovered; but upon analyzing the blood, although we could not prove the presence of free hydrocyanic acid, we were enabled to detect a small quantity of hydrosulphocyanic acid. We were hence led to suspect that the hydrocyanic acid (if such had been taken)

had undergone decomposition in the body, and become converted into hydrosulphocyanic acid, or an alkaline sulphocyanide ; and we therefore stated that it was our belief that the deceased had been poisoned either with prussic acid, oil of bitter almonds, laurel water, or other compound containing hydrocyanic acid.' Circumstances afterwards discovered pointed to suicide by means of the oil of bitter almonds ; and Messrs. Herapath have detailed a number of experiments which they consequently made, to support the new results which they had arrived at in this examination. Their experiments as to whether sulphocyanogen does exist in the human blood, healthy or diseased, are all negative ; but they invite the co-operation of pathologists to determine whether sulphocyanogen is *never* contained in human blood. 'We can now understand,' say they, 'why the hydrocyanic acid so rapidly disappears from the body, and consequently the difficulties that have hitherto been experienced in detecting this virulent poison, though not yet entirely overcome, are greatly lessened.' 'Were it established that sulphocyanogen never occurs in the blood, except in those cases where hydrocyanic acid has been exhibited, it would be possible for the toxicologist to detect this poison with as much ease and certainty as he now can arsenic by the test proposed by Reinsch.' I am not aware whether the results obtained by Herapath in the above very interesting case have been confirmed by the experiments of other analysts, but certainly a process put forward by so eminent a chemist is deserving of very great attention. The second case is the one alluded to by Dr. Maclagan in his evidence (Wharton and Stille, *Medical Jurisprudence*, p. 492). It is a French case reported by M. Brame in *Comptes Rendus*, No. 20, November 13, 1854. In this case, a young man of Tours having committed suicide (*s'étant empoisonné volontairement*) by taking medicinal hydrocyanic acid of the 12th degree, of which he appears to have swallowed about twenty-five grammes, M. Brame was called on, *three weeks* after interment, to try whether he could possibly detect hydrocyanic acid. The acid did not appear to have entered into any chemical combination, but was detected free to a considerable extent, M. Brame being able to collect about 0.60 cyanide of silver, or nearly 0.120 pure hydrocyanic acid.

West's case (*Taylor on Poisons*, p. 692) is generally supposed to be a well-marked case of detection, *twenty-three* days after death ; but the accuracy of this may be doubted, and I shall refer at some length to the original report, (*Provincial Medical and Surgical Journal*, 1845, pp. 461 and 481), that the true state of facts may be judged of. The case, besides, is one of the most remarkable cases of poisoning by prussic acid. Mr. Nunneley

gives the following summary of the facts :—The deceased entered the house without being seen by any one, and passed into a room where there was a glass in which gin and water had been, a jug containing some warm water, and a spittoon. In this room, judging from the creaking of the front door, he remained for a short time—not more than two minutes, left his hat and took with him a tumbler glass, and ran along a passage to the left, and up a considerable flight of stairs, opened a door, closed it again, passed quickly across a large room to throw himself upon a sofa, at the end of it, where, in about another minute (three from his entering the house), he was found lying on his back ; but on a gentleman, one of the witnesses in the case, entering the room he immediately got up into, and remained in a sitting posture, without speaking. His appearance gave the witness the idea that he was drunk. After a short time he was again found sitting upon the sofa, but so far reclining as to show loss of muscular power ; there was also less consciousness, for, when addressed at a little distance, his answer was not intelligible ; but when the witness came nearer and asked if he would fetch a doctor, he laid his hand upon his breast, and said, ‘ Oh no, it is too late, it is too late ! ’ In his breast-pocket was found the little phial which had contained the acid, stoppered. On the whole circumstances of the case, Mr. Nunneley inclined to think he had taken the acid down stairs, but even if it was after he came up, the voluntary motions spoken to by one of the witnesses, and the words which he uttered after some time, render it a remarkable case. Mr. Nunneley states that the quantity taken must have been much greater than the four-tenths of a grain, found by Mr. West in the stomach, for there appears to have been very great evaporation of the acid—the room was filled with it at the *post mortem* examination, five and a half hours after death, eighteen hours before Mr. West made the analysis. Mr. Nunneley, indeed, states that the acid was found twenty-three days after death, without any perceptible alteration of strength, ‘ although placed, as we should suppose, in most unfavourable circumstances for its preservation, being mixed with a mass of partially digested food, the weather being sultry, and no pains taken for its preservation.’ But I take leave to doubt the accuracy of this very much ; for on a reference to the report of the *post mortem* appearances, as seen *five and a half* hours after death, it will be observed that the contents of the stomach and other intestines were *then* put into a bottle, and so laid aside for the subsequent chemical investigation. That was made twenty-four hours after death, and it is only in a note to the proper report of the case, that we have Mr. West’s account of the discovery of prussic acid

twenty-three days after death by the smell, and all the tests used on the former occasion. I am confirmed in this opinion by the statement of Mr. West, that the acid was at this subsequent examination apparently of the same strength as at the first—a result which can only be accounted for by the stomach, &c., having been preserved, although mixed, of course, with organic matter, in a closed bottle in the intermediate time.

Chevallier's case, as quoted by Christison and Taylor, is most extraordinary. 'Distinct proof of the presence of the poison,' says Dr. Christison (*Treatise on Poisons*, p. 755), 'seven days after death, was obtained, although the trunk of the body had never been buried, but had been for some time lying in a drain.' On referring to the full report of the case (*Annales d'Hygiène Publique*, ix. 337), the facts are somewhat different. Between five and six on the morning of the 31st August, there was found in one of the streets of Paris, the head of a man, apparently but recently decapitated. In the course of the same day, the trunk of the body was found in the drain of the Rue de la Huchette, and the legs in the Seine, near the Pont de Neuf. On the following day (1st September), the body was dissected, and a more minute examination was made on the 2d. The doctors in their report state that the cause of death was the hemorrhage resulting from the wound in the neck,—'the body presented all the phenomena of death by hemorrhage—all the cavities of the heart were completely empty;' and they considered that death must have been within the four days previous, as there were no marks of decomposition. It appeared, however, that deceased (a M. Ramus) had received this wound in the neck, either while sleeping or under the influence of drink, or some narcotic poison; the stomach and its contents were, accordingly, on the 2d, put into a well-stoppered bottle, along with spirits of wine, and remitted to M. Chevallier, who, upon the 4th, found unequivocal evidence of the presence of prussic acid, but in very minute quantity—so minute, indeed, that in his report he endeavours to explain it as resulting from something innocently taken by deceased, such as Kirschen Wasser (Eau de Cérises). The subsequent confession of the murderer, however, established the administration of prussic acid, prior to the infliction of the wound in the neck, which, however, was the primary cause of death. As to the date of the death, the medical gentlemen report on 2d September, that it must have occurred within four days, and the probability, I would almost say the certainty, is, from the way in which the body was discovered, that the murder was committed on the 30th August. The trunk of the body, therefore, lay in the drain less than a day, and the

stomach and its contents were sealed up in bottles the third day after the death.

It is an interesting question how the acid happens to have been detected in the present case so long a time after death. Through the kindness of Dr. Daniel M'Kinlay, I am enabled to give the following facts, which may, perhaps, to some extent, account for it. Agnes Montgomery, it will be remembered, died at five minutes from six ; between seven and eight the same evening the body was dressed in grave-clothes, the mouth having remained shut from death ; it was bound up, however, in the usual way, and the *mouth* and *nostrils* covered by a densely starched covering. The body was then laid on the side of the apartment, and the window opened about an inch ; no fire was lighted in the apartment. On Monday evening (the day following) the body was confined, and the lid laid on the coffin so as completely to cover it. It was occasionally removed after that before the Wednesday evening at seven o'clock, when it was finally screwed down. By that time a quantity of stuff had come from her mouth and nostrils, no person having been in the room during the day. The burial was on Thursday. The soil of the graveyard was dry sand and gravel mixed with mould. The body was exhumed on 30th, and the parts of the body removed were immediately on the spot put into air-tight jars, which were sealed and labelled as each was taken from the body. Early on the morning of 5th October, the Drs. M'Kinlay proceeded to the analysis, and ere they left off that day, they were unequivocally satisfied, by the three vapour tests they employed, that prussic acid existed in the stomach.

7. The theory of the possible generation of prussic acid by decomposition was very prominently put forward by the counsel for the prisoner in this case. In support of this view he appealed to the great authority of M. Orfila, and in his cross-examination of Dr. Maclagan, there will be found a translation of a part of the passage in which Orfila enounces it. The theory, however, is one which Orfila never substantiated by any experiments, and of which the special experiments of every other chemist, so far as known to me, have failed to furnish any confirmation. The terms of the passage, too, are by no means such as to lead us to suppose that that great chemist had a very decided opinion on the subject. He appeals to the analogous case of sugar being found in diabetes, but diabetes occurs in a living subject, and it is now settled that sugar is a normal product of the liver, and that in diabetes it is only produced in excess. He appeals to smell ; but in the first place smell is confessedly one of the most unreliable tests of the presence of prussic acid,

and in the next the smell of the armpits, which he particularizes, is not usually considered to be that of prussic acid. M. Orfila likewise refers to the existence of sulphocyanide of potassium in the saliva. It may be interesting to notice the smallness of the quantity. It has been estimated lately by Mr. Herapath, and his results (*Chemist*, New Series, ii. 579) are 0·22224 grain of sulphocyanide of potassium in 10,000 parts. In six other experiments, with different specimens of saliva, he ascertained the proportion of sulphocyanide present to amount respectively to 0·754, 0·515, 0·623, 0·3137, 0·7901, and 0·465 of a grain in 10,000 grains by weight of saliva. A theory of this sort stated in a manner so vague, and founded altogether upon possibilities, and ‘natural suppositions,’ without a single experiment being adduced in support of it, can only be refuted, as the Lord Justice-Clerk most justly observes, by the negative results obtained in every experiment made to test the truth of it. Mr. Taylor has referred particularly to the experiments of Bonjean and others (*Treatise on Poisons*, p. 696), all of which are negative. Herapath made many experiments with a view to ascertain whether it were ever present in the blood, healthy or diseased, in the form of sulpho-cyanogen, and his experiments, all of which were negative in their results, are detailed in the Report before quoted (*Chemist*, 1854, p. 321.) The evidence of Drs. M’Kinlay and Maclagan are conclusive on the point—the former gentleman having, since Tawell’s case, made particular examination of bodies in all stages of decomposition, with a view to the testing of this theory. Dr. Penny, too, in a letter to me, which he has kindly permitted me to refer to, states, that he has operated upon blood, urine, flesh of all kinds, cartilaginous and gelatinous tissues, and almost every article which has been sent to him for analysis in cases of poisoning. As a matter of curiosity, he has subjected portions of stomach, intestines, liver, &c., to the sulphur test, but the results have been negative. Indeed, it is scarcely necessary to multiply examples of the want of confirmation which this theory has met with from experiments. If ever there was a theory, the falsehood of which could be said to be established by experiment, this of Orfila is the one. But that the small value of the theory in a case like that of Agnes Montgomery, where we had all the symptoms of prussic acid poisoning, may appear even upon Orfila’s own showing, I shall here give the concluding part of the passage in Orfila, which Dr. Maclagan was not asked to translate.

‘But it may be said, if you admit the possibility of finding hydrocyanic acid in the bodies of individuals who had not swallowed any during life, you will never be able to affirm, in a medico-legal

analysis, that there has been poisoning by this acid. When you have drawn from the suspected substances a quantity more or less appreciable of this poison, the defence will not fail to say to you that it existed naturally in the body of the individual ; or that it has been formed during the operations which the analysis has necessitated ; or, finally, that it has been generated during the decomposition of the body, if that was putrified. This objection is by no means formidable to those who know that in a case of poisoning it is necessary to attend not only to the results of the analysis, but especially also to the symptoms and the textural lesions—thus, when an individual has exhibited the *very characteristic* symptoms (*accidens*) of poisoning which hydrocyanic acid determines ; and, after the dissection of the body, lesions similar to those which this poison produces, have been discovered ; most certainly hydrocyanic acid, *discovered* and well *characterized* by the chemist, cannot be exclusively (*uniquement*) considered as a product which had developed itself in the animal economy, or which had been generated in the process of decomposition.’—Orfila, *Med. Leg.* iii. 693.

I have to express my acknowledgments to the Lord Justice-Clerk, who has kindly placed his notes of the evidence at my service, and revised my notes of his Lordship’s charge ; to the medical gentlemen, who have revised their evidence, in particular to Dr. M’Kinlay, who has favoured me with many facts incident to the case, but which did not appear on the trial, and to Dr. Douglas Maclagan, who has revised the proofs of the medical evidence ; and to the Counsel on both sides of the Bar, who have furnished me with their speeches.

TRIAL.

TUESDAY, DECEMBER 22.

The Court met at half-past Nine o'clock.

Presiding Judge—

THE LORD JUSTICE-CLERK.

Counsel for the Crown—

F. L. MAITLAND HERIOT, ESQ., *Advocate-Depute.*

ANDREW R. CLARK, ESQ., *Advocate-Depute.*

Agents—

MR. ROBERT RODGER, *Procurator-Fiscal at Paisley.*

MR. DANIEL MACFARLANE, *Interim Procurator-Fiscal at Paisley.*

MESSRS. HART & GEMMELL, *Procurators-Fiscal, Glasgow.*

Counsel for the Panel—

ALEXANDER MONCREIFF, WILLIAM E. GLOAG, A. DUNN PATTISON,
AND JAMES MURE, ESQUIRES, *Advocates.*

Agent—

MR. ROBERT CARSEWELL, *Writer, Glasgow, one of the Agents for
the Poor.*

The panel was placed at the bar charged with the crime of murder: As also wickedly and feloniously administering prussic acid or other poison; as also with the statutory offence of wickedly, feloniously, and unlawfully administering any deadly poison or other noxious and destructive substance with intent to kill or disable any of Her Majesty's subjects, as set forth in the following indictment against him, at the instance of Her Majesty's Advocate:—

JOHN THOMSON *alias* PETER WALKER, now or lately prisoner in the prison of Glasgow, you are Indicted and Accused, at the instance of JAMES MONCREIFF, Esquire, Her Majesty's Advocate for Her Majesty's interest: THAT ALBEIT, by the laws of this and of every other well-governed realm, MURDER; As also, the wickedly and feloniously ADMINISTERING to, or causing to be ADMINISTERED to or TAKEN by, any of the lieges, PRUSSIC

ACID, or other POISON, or other noxious and destructive substance or thing, whereby they are put in danger of their lives, or are injuriously affected in their health or persons, are crimes of an heinous nature, and severely punishable: AND ALBEIT, by an Act passed in the tenth year of the reign of His late Majesty King George the Fourth, chapter thirty-eight, intituled 'An Act for the ' more effectual Punishment of attempts to Murder in certain cases ' in Scotland,' it is, *inter alia*, enacted by the second section thereof, ' That from and after the passing of this Act, if any person shall, ' within Scotland, wilfully, maliciously, and unlawfully, shoot at ' any of His Majesty's subjects, or shall wilfully, maliciously, and ' unlawfully, present, point, or level any kind of loaded fire-arms ' at any of His Majesty's subjects, and attempt, by drawing a ' trigger, or in any other manner to discharge the same at or ' against his or their person or persons; or shall wilfully, malici- ' ously, and unlawfully stab or cut any of His Majesty's subjects, ' with intent, in so doing, or by means thereof, to murder or to ' maim, disfigure, or disable, such His Majesty's subject or subjects, ' or with intent to do some other grievous bodily harm to such His ' Majesty's subject or subjects; or shall wilfully, maliciously, and ' unlawfully, administer to, or cause to be administered to or taken ' by, any of His Majesty's subjects, any deadly poison or other nox- ' ious and destructive substance or thing, with intent thereby, or ' by means thereof, to murder or disable such His Majesty's subject ' or subjects, or with intent to do some other grievous bodily harm ' to such His Majesty's subject or subjects; or shall wilfully, ' maliciously, and unlawfully, attempt to suffocate or to strangle or ' to drown any of His Majesty's subject or subjects, with the intent ' thereby, or by means thereof, to murder or disable such His ' Majesty's subject or subjects, or with intent to do some other ' grievous bodily harm to such His Majesty's subject or subjects; ' such person so offending, and being lawfully found guilty, actor, or ' art and part, of any one or more of the several offences herein ' before enumerated, shall be held guilty of a capital crime, and ' shall receive sentence of death accordingly: ' YET TRUE IT IS AND OF VERITY, that you the said John Thomson, *alias* Peter Walker, are guilty of the said crimes at common law, above libelled, and of the said statutory offence of wilfully, maliciously, and unlawfully administering to, or causing to be administered to or taken by, any of Her Majesty's subjects, any deadly poison or other noxious and destructive substance or thing, with intent thereby, or by means thereof, to murder or disable such Her Majesty's subject or subjects, or with intent to do some other grievous bodily harm to such Her Majesty's subject or subjects, or of one or more of them, actor, or art and part: IN SO FAR AS (1.), on the

Sunday.

13th day of September 1857,

or on one or other of the days of that month, or of August imme-

diately preceding, or of October immediately following, within or near the house or room situated in or near Eaglesham, in the parish of Eaglesham, and shire of Renfrew, then occupied by Agnes Montgomery, a reeler or other worker in a mill, now deceased, and then residing there, you the said John Thomson *alias* Peter Walker did, wickedly and feloniously, administer to, or cause to be administered to or taken by, the said Agnes Montgomery, in beer, or in some article or articles of drink or food to the prosecutor unknown, or in some other manner to the prosecutor unknown, a quantity or quantities of prussic acid, or other poison to the prosecutor unknown; and the said Agnes Montgomery having accordingly taken the same, or part thereof, did, in consequence thereof, immediately or soon thereafter die, and was thus murdered by you the said John Thomson *alias* Peter Walker: LIKEAS (2.), on the

25th or 26th day of September 1857,

Friday or
Saturday.

or on one or other of the days of that month, or of August immediately preceding, or of October immediately following, within or near the house situated in or near John Street, in or near Glasgow, then and now or lately occupied by Archibald Mason, manufacturer, then or now or lately residing there, you the said John Thomson *alias* Peter Walker did, wickedly and feloniously, and wilfully, maliciously, and unlawfully administer to, or cause to be administered to or taken by, Agnes Stenhouse or Mason, wife of the said Archibald Mason, and then and now or lately residing with him, a quantity or quantities of prussic acid, or other deadly poison to the prosecutor unknown, or other noxious and destructive substance or thing to the prosecutor unknown, in whisky, or whisky and water, or in some article or articles of drink or food to the prosecutor unknown, or in some other manner to the prosecutor unknown; and this you did with intent thereby, or by means thereof, to murder or disable the said Agnes Stenhouse or Mason, or with intent to do some other grievous bodily harm to the said Agnes Stenhouse or Mason; and the said Agnes Stenhouse or Mason having accordingly taken the same, or part thereof, did, in consequence thereof, and immediately or soon after taking the same, or part thereof, suffer severe illness, and was put in danger of her life, or was injuriously affected in her health and person: LIKEAS (3.), on the said

25th or 26th day of September 1857,

Friday or
Saturday.

or on one or other of the days of that month, or of August immediately preceding, or of October immediately following, within or near the said house situated in or near John Street, in or near Glasgow, then and now or lately occupied by the said Archibald Mason, you the said John Thomson *alias* Peter Walker did, wickedly and feloniously, and wilfully, maliciously, and unlawfully, administer to, or cause to be administered to or taken by, the said Archibald

Mason, a quantity or quantities of prussic acid, or other deadly poison to the prosecutor unknown, or other noxious and destructive substance or thing to the prosecutor unknown, in whisky, or whisky and water, or in some article or articles of drink or food to the prosecutor unknown, or in some other manner to the prosecutor unknown; and this you did, with intent thereby, or by means thereof, to murder or disable the said Archibald Mason, or with intent to do some other grievous bodily harm to the said Archibald Mason; and he having accordingly taken the same, or part thereof, was, in consequence thereof, and immediately or soon after taking the same, or part thereof, injuriously affected in his health and person: And you, the said John Thomson *alias* Peter Walker, having been apprehended, and taken before Robert Robertson Glasgow, Esquire, advocate, sheriff-substitute of the county of Renfrew, did, in his presence at Paisley, on the

1st day of October 1857,

emit and subscribe a declaration: And having been afterwards taken before Henry Glassford Bell, Esquire, advocate, sheriff-substitute of Lanarkshire, you did, in his presence at Glasgow on the

21st day of October 1857,

emit and subscribe a declaration: Which Declarations; As also, the papers, documents, letters, plans, hair, bottles, and articles, or one or more of them, enumerated in an Inventory hereunto annexed, being to be used in evidence against you, the said John Thomson *alias* Peter Walker at your trial, will, for that purpose, be in due time lodged in the hands of the Clerk of the Circuit-court of Justiciary before which you are to be tried, that you may have an opportunity of seeing the same: ALL WHICH, or part thereof, being found proven by the verdict of an Assize, or admitted by the judicial confession of you, the said John Thomson *alias* Peter Walker, before the Lord Justice-General, Lord Justice-Clerk, and Lords Commissioners of Justiciary, in a Circuit-court of Justiciary to be holden by them, or by any one or more of their number, within the burgh of Glasgow, in the month of December, in this present year 1857, you the said John Thomson *alias* Peter Walker OUGHT to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

FRED. L. MAITLAND HERIOT, *A.D.**

* The peculiarity of this indictment will be observed, in charging the panel with the distinct crimes of Murder and attempt to Poison. These are not charged as committed against the same individual, as was the case in the indictment against Miss Smith. Nor are the crimes so bound up together, as in the words of Baron Hume, 'to have a natural relation and dependence as parts of one foul and nefarious story,'—as was the case in Nairn and Ogilvie. Neither, on the other hand, is it the same as in Burke's case, for there the charge in the major was one, although there were several acts set forth in the

INVENTORY OF PAPERS, DOCUMENTS, LETTER, PLANS, HAIR, BOTTLES,
AND ARTICLES, REFERRED TO IN THE FOREGOING INDICTMENT.

1. A Report or Certificate, bearing to be dated 'Paisley 3^d October 1857,' and to be subscribed 'D. M^cKinlay M.D.,' 'W. B. M^cKinlay M.D.,' 'David Scott, Surgeon,' or to be similarly dated and subscribed.
2. A Report or Certificate, bearing to be dated 'Paisley 15th October 1857,' and to be subscribed 'D. M^cKinlay M.D.,' 'W. B. M^cKinlay M.D.,' or to be similarly dated and subscribed.
3. A Report or Certificate, bearing to be dated 'Paisley 21st October 1857,' and to be subscribed 'D. M^cKinlay M.D.,' 'W. B. M^cKinlay M.D.,' or to be similarly dated and subscribed.
4. A Report or Certificate, bearing to be dated 'Paisley 22nd October 1857,' and to be subscribed 'D. M^cKinlay M.D.,' 'W. B. M^cKinlay M.D.,' or to be similarly dated and subscribed.
5. A Report or Certificate, bearing to be dated 'Paisley 19th October 1857,' and to be subscribed 'D. M^cKinlay M.D.,' 'W. B. M^cKinlay M.D.,' or to be similarly dated and subscribed.
6. A Report or Certificate, bearing to be dated 'Paisley 20th November 1857,' and to be subscribed 'D. M^cKinlay M.D.,' 'W. B. M^cKinlay M.D.,' or to be similarly dated and subscribed.
7. A Report or Certificate, bearing to be dated 'Edinburgh 10th October 1857,' and to be subscribed 'Andrew Douglas Maclagan,' or to be similarly dated and subscribed.
8. A Report or Certificate, bearing to be dated 'Edinburgh 10th Nov^r 1857,' to be subscribed 'Andrew Douglas Maclagan,' and to be marked on the back 'N^o 1,' or to be similarly dated, subscribed, and marked.
9. A Report or Certificate, bearing to be dated 'Edinburgh, 10th Nov^r 1857,' to be subscribed 'Andrew Douglas Maclagan,' and to be marked on the back 'N^o 2,' or to be similarly dated, subscribed, and marked.
10. Plan or other Drawing, bearing to be titled 'Plan of the House in the village of Eagleshame occupied by the deceased Agnes Montgomery & others,' bearing to be dated 'Paisley 28. October 1857,' and to be subscribed 'James J. Lamb, Arch^t & Surveyor,' or to be similarly titled, dated, and subscribed.
11. A Plan or other Drawing, bearing to be titled 'Plan of a portion of the Village of Eagleshame, shewing the house of the deceased Agnes Montgomery, and adjacents,' bearing to be dated 'Paisley 28. October 1857,' and to be subscribed 'James J. Lamb Arch^t & Surveyor,' or to be similarly titled, dated, and subscribed.
12. An Inventory or other Document, commencing with the words, 'Paisley 6th October 1857, Inventory of Articles enclosed in a Tin Box,' and to be subscribed 'W. B. M^cKinlay MD,' 'D M^cKinlay MD,' or to be similarly dated and subscribed.
13. An Inventory or other Document, commencing with the words 'Inventory of Articles delivered by us this morning to M^r Robert Hunter,' and bearing to be subscribed and dated 'D. M^cKinlay,' 'W. B. M^cKinlay,' 'Paisley 30th November 1857,' or to be similarly subscribed and dated.

minor. But no objection was taken on the part of the panel, nor was any motion made for a separation of the charges; although it will be seen from the speech of the Lord Justice-Clerk, that if such motion had been made, his Lordship was prepared to have granted it.

14. A Glass Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 1 Dec^r 1857. Bottle in which stomach removed from body of Agnes Montgomery,' and having another label attached, marked N^o 14 of Inventory, and also said labels.

15. A Glass Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 1 Dec^r 1857. Bottle in which a portion of the liver removed from body of Agnes Montgomery,' and having another label attached, marked No. 15 of Inventory, and also said labels, and a Cork.

16. An Earthenware Jar or other Jar, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 1 Dec^r 1857. Jar in which Heart and Kidney removed from body of Agnes Montgomery,' and having another label attached marked N^o 16 of Inventory, and also said labels, and a Stopper.

17. A Glass Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 1 Dec^r 1857. Bottle in which the Spleen removed from the body of Agnes Montgomery,' and having another label attached, marked N^o 17 of Inventory, and also said labels.

18. An Earthenware Jar or other Jar, having a label attached with writing thereon, beginning in the following or similar terms, Paisley 1st Dec^r 1857. Jar in which portions of Intestines removed from body of Agnes Montgomery,' and having another label attached, marked N^o 18 of Inventory, and also said labels, and a Stopper.

19. A Glass Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 6th Oct 1857. Half of the stomach of the late Agnes Montgomerie,' and having another label attached, marked N^o 19 of Inventory, and also said labels, and a Cork.

20. A Glass Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 6. Oct 1857. Portion of the right lobe of the liver,' and having another label attached, marked N^o 20 of Inventory, and also said labels, and a Cork.

21. A Glass Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 6. Oct 1857. Half of the heart of the late Agnes Montgomerie,' and having another label attached, marked N^o 21 of Inventory, and also said labels, and a Cork.

22. A Glass Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 6th Oct 1857. Half of the Spleen,' and having another label attached, marked N^o 22 of Inventory, and also said labels, and a Cork.

23. A Glass Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 6th Oct 1857. Half of the kidney of the late Agnes Montgomerie,' and having another label attached marked N^o 23 of Inventory, and also said labels, and a Cork.

24. A Glass Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Paisley 6. Oct 1857. Portions of the Duodenum & Ileum,' and having another label attached, marked N^o 24 of Inventory, and also said labels, and a Cork.

25. A Phial, and Liquid therein, having a label attached, with writing thereon, beginning in the following or similar terms, 'N^o 18 Argyle Street Glasgow 14th Oct 1857. The Phial and contents I have,' and having another label attached, marked N^o 25 of Inventory, and also said labels, with two or thereby Corks, and a Piece of Leather or Skin.

26. A Phial, and Liquid therein, having a label attached, with writing thereon, beginning in the following or similar terms, 'N° 18 Argyle Street Glasgow 14th Oct 1857. The Phial and contents attached to this libel,' and having another label attached, marked N° 26 of Inventory, and also said labels, with two, or thereby, Corks, and a Piece of Leather or Skin.

27. A Quart Bottle or other Bottle, having a label attached with writing thereon, beginning in the following or similar terms, 'Eaglesham 4th Oct 1857. Referred to in the case of John Thomson,' and having another label attached, marked N° 27 of Inventory, and also said labels, and a Cork.

28. A Phial, labelled 'Creosote, Poison,' having a label attached, marked N° 6, and having another label attached, marked N° 28 of Inventory, and also said labels, and a Cork.

29. A Glass Bottle, having a label attached, marked N° 7, and having another label attached, marked N° 29 of Inventory, and also said labels, and a Cork.

30. A Glass Tumbler, having a label attached with writing thereon, beginning in the following or similar terms, 'Eaglesham 5 Nov /57 Referred to in the case of John Thomson,' and having another label attached, marked N° 30 of Inventory, and also said labels.

31. Seven, or thereby, Small Pieces of Glass, contained in a small phial, having a label attached with writing thereon, beginning in the following or similar terms, 'We the undersigned do hereby certify,' and having another label attached, marked N° 31 of Inventory, and also said labels, phial, and a Cork.

32. A Small Quantity of Hair attached to a label, marked N° 9, and having another label attached, marked N° 32 of Inventory, and also said labels.

33. A Small Quantity of Hair attached to a label, marked N° 10, and having another label attached, marked N° 33 of Inventory, and also said labels.

34. A Small Quantity of Hair attached to a label, marked N° 11, and having another label attached, marked N° 34 of Inventory, and also said labels.

35. A Small Quantity of Hair attached to a label, marked N° 12, and having another label attached, marked N° 35 of Inventory, and also said labels.

36. A Small Quantity of Hair attached to a label, marked N° 13, and having another label attached, marked N° 36 of Inventory, and also said labels.

37. A Letter or Writing, bearing to be dated 'October $\frac{th}{27}$ 1857,' and to be subscribed 'John Thomson,' and to be addressed 'The Procurator Fiscal Paisley Renfrewshire,' or to be similarly dated, subscribed, and addressed.

38. A Key, having a label attached with writing thereon, beginning in the following or similar terms, 'N° 1. Eaglesham 2^d Oct 1857 Found concealed at the root of a tree,' and having another label attached, marked N° 38 of Inventory, and also said labels.

39. A Box containing Ointment, having a label attached, marked N° 2, and having another label attached, marked N° 39 of Inventory, and also the said labels.

40. A Pocket-Comb, a Bit of Sealing-Wax, Two Pencils, and Two Press Types 'D' & 'G,' having a label attached, marked N° 3, and having another label attached, marked N° 40 of Inventory, and also said labels.

41. A Pair of Scissors, a Thimble, Two Pieces of Bees-Wax, a Piercer, Six Small Pieces of Cloth, about Three Dozen Needles, and about Half-a-Dozen Buttons, having a label attached, marked N° 4, and having another label attached, marked N° 41 of Inventory, and also said labels.

42. Two Handkerchiefs and a Neck-Tie, having a label attached, marked N° 5, and having another label attached, marked N° 42 of Inventory, and also said labels.

43. A Woman's Cap, having a label attached, marked N° 17, and having another label attached, marked N° 43 of Inventory, and also said labels.

44. A Pint Bottle or other Bottle, having a label attached, with writing thereon, beginning in the following or similar terms, 'Glasgow, 89 John Street, 1st October 1857. Found in the house of Archibald Mason,' and having another label attached, marked N° 44 of Inventory, and also said labels, and a Cork.

45. A Phial, having a label attached, with writing thereon, beginning in the following or similar terms, 'Paisley 17 Oct 1857. Referred to in the case of John Thomson,' and having another label attached, marked N° 45 of Inventory, and also said labels, and a Cork.

46. A Wine-Glass, having a label attached, with writing thereon, beginning in the following or similar terms, 'Glas° 17 Nov 1857. Produced and referred to by,' and having another label attached, marked N° 46 of Inventory, and also said labels.

47. Two Small Pieces of Paper or Labels, having each printed thereon the words 'H. Hart, Chemist & Druggist 18 Argyle Street, west corner of Virginia Street, Glasgow,' and having a label attached, marked N° 47 of Inventory, and also said label.

48. An Impression on a label in Sealing-Wax of a Seal or Stamp, bearing the words 'R. Glover, Port Glasgow,' or similar words.

49. A Seal or Stamp, having a label attached, with writing thereon, beginning in the following or similar terms, 'Glasgow 19 Nov 1857. Produced in the case of John Thomson,' and having another label attached, marked N° 49 of Inventory, and also said labels.

50. A Phial containing Liquid, having a label attached, with writing thereon, beginning in the following or similar terms. 'Paisley 4th Nov 1857. The Phial attached to this label,' and having another label attached, marked N° 50 of Inventory, and also said labels, and a Cork.

FRED. L. MAITLAND HERIOT, *A.D.*

LIST OF WITNESSES.

1. Robert Robertson Glasgow, Esquire, advocate, sheriff-substitute of the county of Renfrew.
2. Robert Macfarlan, now or lately writer in Paisley.
3. John Guy, now or lately depute-sheriff-clerk of Renfrewshire, and residing in Paisley.
4. George Reid Gordon, now or lately criminal-officer in Paisley.
5. Henry Glassford Bell, Esquire, advocate, sheriff-substitute of Lanarkshire.
6. William Hart, now or lately writer in Glasgow.
7. George Gray, now or lately clerk in the sheriff-clerk's office in Glasgow.

8. Robert Stewart, now or lately assistant sheriff-officer, County Buildings, Glasgow.
9. Janet Montgomery or Watson, wife of, and now or lately residing with, James Watson, tailor in Eaglesham, in the parish of Eaglesham, and shire of Renfrew.
10. James Watson before designed.
11. Isobel or Bell Young or Law, now or lately residing with James McDonald, joiner, in Eaglesham aforesaid.
12. Elizabeth Blackwood or McDonald, wife of, and now or lately residing with, the said James McDonald.
13. David Clarkson, slater and mole-catcher, now or lately residing in Eaglesham aforesaid.
14. Janet Walker or Clarkson, wife of, and now or lately residing with, the said David Clarkson.
15. Agnes Young or Montgomery, wife of, and now or lately residing with, Hugh Montgomery, carrier, in Eaglesham aforesaid.
16. Hugh Montgomery before designed.
17. John Young, carter, now or lately residing in Eaglesham aforesaid.
18. Marion Montgomery or Young, wife of, and now or lately residing with, the said John Young.
19. William Muir, cotton-spinner, now or lately residing in Eaglesham aforesaid.
20. James Fulton, baker, now or lately residing in Eaglesham aforesaid.
21. William Young, labourer, now or lately residing in Eaglesham aforesaid.
22. Edward Hinshelwood, joiner, son of, and now or lately residing with, Edward Hinshelwood, farmer, in Eaglesham aforesaid.
23. Thomas King, weaver, now or lately residing in Eaglesham aforesaid.
24. Janet Dick or King, wife of, and now or lately residing with, the said Thomas King.
25. David Scott, surgeon, now or lately residing in Eaglesham aforesaid.
26. Elizabeth Craig, now or lately servant to, and residing with, the said David Scott.
27. Janet Dollar, daughter of, and now or lately residing with, George Dollar, spirit-dealer, in Eaglesham aforesaid.
28. Janet McGregor, daughter of, and now or lately residing with, John McGregor, omnibus-driver in Eaglesham aforesaid.
29. Catherine Cochran, daughter of, and now or lately residing with, William Cochran, tea-dealer, in Eaglesham aforesaid.
30. John Ferguson, now or lately assistant to, and residing with, Hugh Montgomery before designed.
31. Adam Gall, ham-curer, and now or lately residing in Stockwell Street, Glasgow.
32. George Stirling, now or lately shopman to Hugh Hart, chemist and druggist, in or near Argyle Street, Glasgow, and now or lately residing in Bruce Place, Partick, in or near Glasgow.
33. James Kerr Young, now or lately shopman to the said Hugh Hart, and now or lately residing in or near Sauchiehall Street, Glasgow.
34. John Kego, groom to the Reverend William Carswell, United Presbyterian Minister, Eaglesham, and now or lately residing there.

35. Robert Hamilton, weaver, church-officer and grave-digger, now or lately residing in Eaglesham aforesaid.
36. William Murray, weaver and labourer, now or lately residing in Eaglesham aforesaid.
37. John Watson, photographer, and now or lately residing in Portugal Street, Glasgow.
38. James Arneil, painter, son of, and now or lately residing with, Ann Coulter or Arneil, in Eaglesham aforesaid.
39. Mary Gemmell, daughter of, and now or lately residing with, John Gemmell, joiner, in Eaglesham aforesaid.
40. Janet Hogg, dressmaker, daughter of, and now or lately residing with, Walter Hogg, tailor, in Eaglesham aforesaid.
41. James Kean, grocer and cotton-spinner, now or lately residing in Eaglesham aforesaid.
42. Robert McLaurin, constable in the Renfrewshire County Police, and now or lately residing in Newton-of-Mearns, in the parish of Mearns, and shire of Renfrew.
43. John Morris, detective-officer, now or lately residing in Pollockshaws, in the parish of Eastwood, and shire of Renfrew.
44. Alexander Cushny Christie, detective-officer, now or lately residing in Paisley.
45. Robert Hunter, superintendent of Renfrewshire County Police, and now or lately residing in Paisley.
46. Daniel McKinlay, doctor of medicine and surgeon, now or lately residing in Paisley.
47. Walter Boyd McKinlay, doctor of medicine, now or lately residing in Paisley.
48. James Jamieson Lamb, land-surveyor and architect, now or lately residing in Paisley.
49. Andrew Douglas Maclagan, physician, now or lately residing in Heriot Row, Edinburgh.
50. Janet Watson, daughter of, and now or lately residing with, James Watson before designed.
51. Robert Gall, ham-curer, now or lately residing in Stockwell Street, Glasgow.
52. Margaret Montgomery or Cameron, wife of, and now or lately residing with, Robert Cameron, weaver in Eaglesham aforesaid.
53. William Cameron, weaver, son of, and now or lately residing with, the said Robert Cameron.
54. Janet Young or Wallace, mill-worker, daughter of, and now or lately residing with, Agnes Montgomery or Young, in Eaglesham aforesaid.
55. Mary Donald, mill-worker, now or lately residing in Eaglesham aforesaid.
56. Agnes Lawson or Young, wife of, and now or lately residing with, Robert Young, weaver, in Eaglesham aforesaid.
57. Robert Young before designed.
58. Isabella Montgomery or Renfrew, wife of, and now or lately residing with, Ebenezer Renfrew, cotton-spinner, at West Arthurlie, Barrhead, in the parish of Neilston, and shire of Renfrew.
59. Finlay Montgomery, now or lately stoker on board Her Majesty's tug-boat Widgeon, Deptford, by London.
60. Cauvine Pittal Alston, now or lately clerk in the prison of Glasgow.

61. William Montgomery, now or lately warder in the prison of Glasgow.
62. William Montgomery, now or lately prisoner in the prison of Glasgow.
63. Peter Fletcher, tailor, now or lately residing in Holm Street, Glasgow.
64. Christina M^cFarlane or Fletcher, wife of, and now or lately residing with, the said Peter Fletcher.
65. James Bell, tailor and clothier, now or lately residing at Lochgilphead, in the parish of Glassary, and county of Argyle.
66. James Fraser, superintendent of Police for the county of Argyle, and now or lately residing at Lochgilphead aforesaid.
67. Malcolm Thomson, governor of Inveraray Prison, and now or lately residing in Inveraray.
68. Archibald Mason, manufacturer, now or lately residing in John Street, Glasgow.
69. Agnes Stenhouse or Mason, wife of, and now or lately residing with, the said Archibald Mason.
70. George Miller, physician and surgeon, now or lately residing in Sauchiehall Street, Glasgow.
71. William Bryson, now or lately residing with his mother, Elizabeth Watson or Bryson, a widow and inn-keeper, in Eaglesham aforesaid.
72. John Hogg, compositor, now or lately residing with the said Archibald Mason.
73. Nicholas Milone, tailor, now or lately residing with the said Archibald Mason.
74. Margaret Fleming or Stewart, wife of James Stewart, a photographic artist, and now or lately residing with Alexander Munro, watchmaker, in Renfrew Street, in or near Glasgow.
75. James Stewart, son of, and now or lately residing with, the said Margaret Fleming or Stewart.
76. Robert Waddell, warper, now or lately residing in West Campbell Street, in or near Glasgow.
77. Thomas Erskine, warper, now or lately residing in Candleriggs, Glasgow, with Andrew Picken, a private watchman.
78. John Grant, warper, now or lately residing in Main Street, Calton of Glasgow.
79. Archibald Snedden, teacher, now or lately residing in South Cumberland Street, Calton aforesaid.
80. John Smith, warper, now or lately residing in Antigua Place, Nelson Street, Glasgow.
81. Isabella Ross, daughter of, and now or lately residing with, Marion Grierson or Ross, in Broad Close, High Street, Glasgow.
82. Robert Glover, spirit-dealer in George Street and John Street, Glasgow, and now or lately residing in North Saint Mungo Street, Glasgow.
83. Hugh Hart before designed.
84. George M^cKay, now or lately assistant-superintendent of the Glasgow Police.
85. James Jackson, now or lately spirit-dealer at Clarkston, in the parish of Cathcart, and county of Renfrew.
86. John Murray, now or lately sheriff-officer in Glasgow.

87. William King, weaver, now or lately residing in Eaglesham aforesaid.

88. Frederick Penny, professor of chemistry in the Andersonian University of Glasgow.

89. Robert Christison, physician, residing in Moray Place, Edinburgh.

90. Harry Rainy, physician, now or lately residing in Woodside Place, in or near Glasgow.

91. James Paterson, physician, now or lately residing in Partick, near Glasgow.

FRED. L. MAITLAND HERIOT, A.D.

A list containing the names of three witnesses in exculpation had been lodged on behalf of the panel.

The diet having been called at the instance of Her Majesty's Advocate for Her Majesty's interest against John Thomson *alias* Peter Walker, and no objection having been stated on the part of the panel, 'the Lord Justice-Clerk finds the libel relevant to infer 'the pains of law.'

The panel pleaded 'Not Guilty.'

The following Jury was then balloted for:—George Anderson, Merchant, Lansdowne Crescent; James Wardrop, Manager or Clerk, Pollokshaws; Alexander Mein, of Clyde Bottle-works, Fitzroy Place; Daniel Cunningham, Ironmonger, Paisley; John Smith, Merchant, Trongate; Christopher Strang, Junior, Farmer, Parklee, Carmunnock; James Niven, Portioner, Carmunnock; Johnston Paterson, Cowbrae Cottage, New Monkland; John Robertson, Farmer, Killington, Abbey; James Oliver, Grocer, Bridgend, Dumbarton; John Sommerville, Farmer, Wester Boghead, Cadder; William Love, Grocer, High Street; Allan Kirkwood, Provision Merchant, Cowcaddens Street; Edward Buchanan, Builder, Clyde Place; William Cuthbert, Farmer, White Croft, Port-Glasgow.

The trial then proceeded.

EVIDENCE FOR THE PROSECUTION.

1. *Robert Robertson, Glasgow, Esq., Advocate, Sheriff-Substitute of the County of Renfrew.*—The prisoner was brought before me on 1st October. This is his declaration emitted after cautioning him. It was freely and voluntarily emitted in his sound and sober senses.

2. *John Guy, Depute-Sheriff-Clerk of Renfrewshire at Paisley.*—This is the prisoner's declaration, freely and voluntarily emitted after the usual caution.

3. *James Jamieson Lamb, Architect and Land-Surveyor in Paisley.*—On 28th October 1857, I prepared the plan of the tenement in which deceased lived. I compared the lithographs, which are correct, and now given to the Jury. It is the plan of the house in Eaglesham occupied by Hugh Montgomery. The Watsons shared in the house. It was occupied by the deceased Agnes Montgomery. Her apartment is coloured red. The next room on the right of the plan was occupied by M'Donald, and

that on the left by Clarkson. All these three are on the same flat. The stair leads up to them. On the plan there is also the plan of the ground floor. The house consists of two storeys. There is a close or entry below leading to the stair and through the tenement to the back ground. Agnes's apartment was just one room. There was no furniture in it when I saw it. But the furniture is represented as pointed out by Mrs. Watson, her sister. I made a plan of a portion of the village of Eaglesham. I have examined the lithographs of that plan also, which are correct. On the right, at the corner of the upper street, is Agnes's house. At the corner of garden behind, there is also a back building—there is an iron gate behind the back building, five feet high. The place where the broken glass was found was pointed out by Janet Clarkson. She also pointed out the rose-bush to me, and the coil of hay was pointed out by James Watson. There is a well beside it. The green opposite Agnes's house is a public green. It comes down on the plan to the other street, and is crossed by a burn or lade. The three houses at the foot of plan—Hogg's house, Bruce's house, and Dr. Scott's—were pointed out to me by John Morris. 'The Tree' marked on the common was pointed out by Mary Gemmell, Janet Hogg, and John Morris. I went into the houses of Hogg and Bruce—the tree was visible from these houses. The breadth of the green from Agnes's house to Dr. Scott's is 207 yards; from the tree to Bruce's house is 72 yards, and to Hogg's house 80 yards.

4. *Henry Glassford Bell, Esq., Advocate, Sheriff-Substitute of Lanarkshire.*—The prisoner was brought before me on 21st October, and emitted that declaration, after the usual caution, freely and voluntarily, when in his sound and sober senses.

5. *George Gray, Clerk in the Sheriff-Clerk's Office at Glasgow.*—I was present when that declaration was emitted—freely and voluntarily, after the usual caution.

6. *Janet Montgomery or Watson, wife of James Watson, Tailor in Eaglesham.*—Agnes Montgomery was my sister. I live on the ground floor of the tenement. Hugh Montgomery lives on the other side of the ground floor—he is my uncle, and a carrier. My house enters from the street; Hugh Montgomery's door is in the entry; Agnes's is above—Clarkson, a mole-catcher, on the one side, and M'Donald, a wright, on the other. I pointed out the position of the furniture in her house to Lamb—it had been removed. My sister was 27 years of age, a reeler in the mill. The panel lived in my house last summer. He worked with my husband as a tailor. He came on 25th June and lodged with us till 25th September. My sister died on Sunday, 13th September. I saw her that afternoon, last in health at half-past four P.M. She was quite well, and a healthy woman. I saw her in her own entry to the stair. I asked where little Jeanie, my daughter was? Janet, an older girl, had been at church with her. She said she gave her to Mrs. Cameron, that she might get her tea. I saw her at twenty minutes to five with William Young, speaking to him in the entry. I had some conversation with her about bread. I had missed a loaf. I said, 'I know where the loaf is gone to now. I found it below Jack's (prisoner's) bed, between the straw and ticking.' Agnes said to put it on a plate as a desert for the panel. I went away, and returned in about three minutes. She was still at the entry, but I passed into my own house. The panel was at his tea in the house. My husband, and Edward Hinshelwood, and Robert Gall, were there. I am not sure whether my little daughter was in or not. They

were all at their tea except Edward. Panel went out after tea—about ten minutes after I went in; it was before five o'clock. Fulton and Muir afterwards came to ask for him. We said he was up in Aggie's, or in the Green. This would be a quarter of an hour after—past five at any rate—a quarter past five, I think. Next I got tea after them. I saw Fulton standing, and I said he had not gone up to Aggie's. Others said, he is speaking to Muir. They went away. Edward Hinshelwood, and Young, and Gall, and my husband, went out. I was left alone. Janet was not in. Jeanie is eighteen months, and Janet is three years old last August. I went out after. I got Jeanie from Mrs. Cameron. Mrs. M'Donald was at the door when I went out. Muir and Fulton came up the entry, through the house, at this time, and passed. Mrs. M'Donald said, 'I hear a strange moaning. Do you hear it?' I said, 'Whisht.' I listened, and heard it. Mrs. M'Donald said, 'What can that be?' I said, 'It'll be Nannie,' my aunt—the carrier's wife; she was unwell. Mrs. M'Donald said, 'No.' I then said it would be Mrs. Clarkson; she had not been well. She went up stairs. I heard moaning. I then knew it was from Aggie's; her room is partly over the entry, and partly over my house. Mrs. M'Donald had gone up stairs. I then went up stairs. Mrs. Law was there; she said the moans were from Aggie's. I went to Aggie's door; it was locked. We could not get in. I cried. There was no answer. The moans continued. I made to break the door. I got a key—Clarkson's coal-house key. We had partly broken up the door. The key opened it. My sister's key was not inside. I did not see the key in the room. We unlocked it with Clarkson's key. I made a rush, and went in first. Aggie was sitting on a chair before the clock, her head leaning to the right on the table, her right hand hanging down, the left in her lap. I gripped, and raised her up; her hair was hanging loosely down; her front hair was loose. A thick slaver was coming from her mouth, and her eyes were staring. She was alone. I cried, 'Aggie! What's this? Have you been taking anything?' I got no answer;—still the moans. She made a kind of a 'yisp,' as if going to vomit, but not natural. She opened her mouth, and I put three fingers in, to cause her to throw. She shut her teeth on them, and I could not get them out till she made another 'yisp.' She seemed quite insensible, and never spoke. The slaver was very thick, and came down on her bedgown, mixed with some bloody stuff. Dr. Scott came in. He said her tongue was bitten. I saw it was bitten. Hugh Montgomery was in before the doctor. He asked if I had loosened her clothes. She had no apron. He cut the stays. Mrs. M'Donald went in with me, and then sent for the doctor. There was much slaver on the bed-gown. I dighted it twice off, till it fell again. When she made the moans it seemed to come away from her stomach. It was a strange kind of moan—loud. The slaver appeared to come up. There was a glut on her teeth. We put cold water on her hands. Fulton and Muir came in. We bathed her temples and hand in water. The right hand was cramped up. I said cold water would not do. I said, 'Bring warm water.' She was flushed in the face. Her right hand was cold. We put it into warm water. The cramp seemed to leave the fingers and to lodge in the elbow. It returned to the fingers when the hot water was taken away. The prisoner came in, and said the doctor was not in his own house. I said, 'Run for him to the school-house.' Muir had gone before, and the doctor came in with the prisoner and Muir. She was not in bed. The doctor looked at

her, and asked what state she was in when she took badly? I said she was in this state when I came in. The prisoner said that he was so bad in going to the doctor that he had either to lean against the bridge or tree. I can't say which. The doctor said to put her into her bed. Prisoner said, 'O yes! put her into bed.' He threw off his coat to help. I looked to Fulton and Muir to go away, and they took the prisoner also away. We put her into bed. She did not then moan so much. Her breath gave heavy lifts from her breast. Her eyes were motionless, staring straight before her, rather upwards. She gave a louder moan as the doctor came in, and perhaps she had noticed him, and that caused agitation, but I doubt it. I asked the doctor, 'Do you think she has been taking anything?' He said, quite calmly, 'I do not know.' He seemed unable to judge. Her face was not wet—red, greyish-red; face seemed to be swelled, and like to burst. She had difficulty in breathing when put to bed, but the moans seemed rather to stop. The breathing was heavy, and at intervals. It was not so in the chair; it got worse. The doctor ordered her a little toddy. I brought half a glass of whisky up. I got the water in her own kettle. There did not seem to be any tea; there was no teapot out. The doctor held it to her mouth. He thought her stomach wrong. I went for more spirits. I can't say if she swallowed any of the toddy. The doctor put it to her mouth. She turned weaker and weaker. Her breast and forehead were bathed with the spirits. I sent for Mrs. Young, my sister. Mrs. Young attended to her. She went into bed with her, and took off her stays. Mrs. M'Donald said the doctor should bleed her. The doctor said her pulse was too weak. I saw him try to start a vein; she would not bleed. I can't say if he applied the lancet. I said one time I thought she was gone; she turned white about the lips and mouth. The doctor went away. He came back; she was gone. This was about six. It was twenty-five minutes after five when I went in, and it would be thirty-five minutes before she died. She was buried on Thursday the 17th. I did not see her put into the coffin. I did not see the body after it was lifted. I never heard her say anything about the prisoner, except that he was a liar. He told her that he had a good new bible in Glasgow, and he brought down an old bible with plates—and he was a cursed liar. Once they had a difference; Aggie and another, Janet Dollar, had thrown water on him. He said he would be damned but he would be up to them for that. This was in August. He did not speak to her for some days after that. Prisoner gave Janet a penny that night. She went out and brought in four red balls, and gave me a halfpenny. She went away with the red balls. I have a brother, Finlay Montgomery, who sent her money. She was to go to a place in Jamaica Street, and get money every second month. It was part of his pay—£4 the two months—at the Custom House. This was well known. She spoke another time of his (prisoner's) telling lies. I saw no appearance of kindling a fire in the room; the floor was quite clear; it was in better order than I almost ever saw it. There were sticks, brambles, below the bed. It was a concealed bed; a dresser was at the corner; a table was on the right-hand side of the fire; the furniture was in good order, and as in the plan. On Saturday the 12th, prisoner asked me, with John Ferguson, a boy, for pen and ink, which I gave. He went and got paper, and wrote. Then he and the boy went out. I understood the boy was to bring something out from Glasgow, to which he was going. I once saw him write a line before, for the boy to get some-

thing for him. The furniture was divided the day after the funeral. I did not see any money, but 2d.; it was found by Mrs. Young. I have another sister, Mrs. Renfrew, but she was not there on the day of the death. There was a good fire on in the room, and it had been burning. My uncle went for his kettle, as hers was not boiling. The coals were well burned down. I saw one phial (Label 28) marked "Creosote"—"Poison," for toothache; she complained often. I understood she had been using it. This phial, marked "Creosote—Poison," I identify as it. I did not see N° 29. The small tumbler (Label 30) was got by Mrs. Montgomery; she gave it to Hunter, the Superintendent of Police. I saw the tumbler in the house on Monday, in the press. It was dry, and white on the edge; it looked like sugar on the side of the tumbler, quite hard. I did not notice any change in the colour of the prisoner's hair; it was always the same as now. My sister was very cheerful; I never saw her in low spirits in my life. I knew of no disappointment she ever had, nor had she ever fits; I never saw her 'lying' an hour for many a year. I never heard her speak of destroying herself. The prisoner was always called 'Jack Thomson;' he was known by no other name. Shewn No. 43—It is a woman's cap; it was put on her head after death, and she was buried in it. There were some common bottles in the house, sent to the public-house, Dollar's; they were below the dresser, and empty, so far as I know. There were two other tumblers, high up in the press, but they were never used. The key was searched for in every place. I saw the key on 2d October; this is the key now shewn to me. It stood in her door. I often saw it; in my own house too. She was in the habit, when she went out, to lock the door and take the key. The prisoner generally went out when we were at our meals. After Sunday, he required to be called in the morning, which he did not before. After Sunday, he always took Janet out at meal-times—sometimes before—always after. One day my daughter said something to me, the 29th September, the day before I gave information. Janet is three years old. I gave information partly from this, partly from what I had heard as to John Ferguson.

The ADVOCATE-DEPUTE proposed to ask her what the little girl said. This was objected to, and he then proposed to examine the little girl. Janet was brought in with her aunt, Mrs. Renfrew. Child said she knew Panel. The Advocate-Depute proposed to ask his questions, but he was desired to lead other evidence first.

MRS. WATSON recalled—

By the COURT.—Janet was taught her questions—who made her—to understand her duty to God; she seemed to understand; she seemed to treat it seriously. She was told her duty was always to tell the truth; she seemed to understand that, and to obey it. She was not given to tell things that were not facts. I believed what she said to me on the occasion, which led me to give information, and on that I was led to give the information. She spoke of the matter referred to of her own accord. The prisoner was away. She was sitting on the floor; in the middle of the floor; she suddenly began to say something. After she told me, I asked questions.

To the ADVOCATE-DEPUTE.—She is a very intelligent child, with an extra good memory.

Cross-examined by MR. MONCRIEFF for the Panel.—I never snibbed the door on the inside. I can't say if it snibs. I did not observe her body

swelled, till the lace of stays was cut. Her feet seemed to be swelled when the boots were taken off. Janet slept with me after that Sunday, and before it.

7. *James Watson, Tailor in Eaglesham, husband of last Witness.*—I was married four years past. Agnes lived in the same tenement for two years next Whitsunday. I have known her for the last fourteen years—a very healthy, strong girl, with no fits of any kind, very cheerful, never in low spirits, nor depressed. Prisoner lived from 23d June to 25th September with us. On 13th September we were at tea in my house—prisoner took tea with us. Robert Gall also. My wife did not take tea with us. She was in the room at the time. Janet was running about, out and in; this would be half-past four. Prisoner rose first to go away; about five or ten minutes before five; the others remained till about ten minutes after five. I went to the door but turned in again. I and Hinselwood stopped in the house. Gall told William Young to come in; my brother-in-law is John Young. I went towards the back green and saw Fulton and Muir; they asked for prisoner; I said he was either in Aggie's, or down the green. I saw them in the back green twenty minutes after five. I had looked at the clock. In the back green I saw prisoner opposite the well—lying near the coil of hay. I gave a sharp cry; he jumped to his feet, and seemed startled, and rather inclined to go the other way. I called to him to come to the big baker. He had been lying on his back on the coil of hay—his face to us. Janet was playing about his feet. He came down towards the iron gate. He jumped over it. Fulton and Muir were on the other side, and he jumped over to them. We and Janet were left on the green. We went for a walk, for three quarters of an hour. When I got home Aggie was dead. It was five or ten minutes after six when we returned. Janet was up the walk on the left hand of garden. After prisoner had got over the gate, on the walk, I observed broken glass half-way between the house and well—on the walk; the gravel had the mark of a foot. I thought it was stupid in any person not to lift the glass—it was thin small glass. I saw next day that it was the glass of a phial—about ten o'clock. Mrs. Clarkson saw it too. It was in the same condition and place. I threw away the bits of glass. I saw the mark of the foot on the Sabbath, but not the next day; the dew would remove it. There was no appearance of anything being spilt. I pointed out all the places to Lamb, and to Mrs. Montgomery, and Mrs. Cameron. Just accident led me to the place. Mrs. Cameron had been at the well. The breadth of the court was as great as from coil of hay to well. I saw the prisoner on 13th, after he was in the garden, in my own house. He came in and went out, and came in again, about half-past nine. I asked him if he could get a dram, as I was not well. My wife asked him about Aggie. He said when he left she was breaking sticks to kindle the fire. My wife asked him when he had been in Aggie's, and when he left. He said he thought he had been the last, and she was breaking the sticks when he left the room. He said Janet was standing at Aggie's window, and the child tapped at the window for him to come up. He went up, and he took Janet down to the garden to gather flowers. He said he left Agnes alone in the room. I recollect Madeleine Smith's trial. My wife was reading the papers about the trial on 13th or 14th July. She read about a boy being sent to buy prussic acid. He asked what kind of stuff that prussic acid was. I said, that if she had given it to L'Angelier she could not have got out of his company before he would have been dead. He

asked what it was used for. I said I thought for taking likenesses, and that my brother, a photographer, used it. He said it was surely strong stuff. He asked where it could be bought. I said, in an apothecary's; but I added, no one but likeness-takers would get it. He made no remark—nothing else passed as to Prussic acid. I saw my sister-in-law's body about nine. No confusion in the room. The key could not be got to lock the door—the house was searched for it. I did not see the doctor. My sister was put into the coffin on Monday, and the coffin screwed down on Wednesday. She was buried on Thursday the 17th. She was disinterred on the 30th. Dr. Scott and the other doctors were present. I saw the grave opened, and saw the body. I did not know the features, but I knew the body by the shroud. The features were very black and swollen. I have no doubt whatever that it was her body; it was the same grave, the same coffin, and the same shroud. The prisoner never took his meals with us. After the 13th, he always took Janet out with him at meal-times—not so often before. I gave information on 30th September. The prisoner left us on the 25th. A letter went amissing with money, and I advised him to go away. The letter was left at our house. I suspected him, and would not keep him. I said at the time, in the garden, to Young and Hinshelwood, that he (prisoner) looked very strange; he was agitated, and very white. I noticed it at the time. In the prisoner's presence, my wife and I spoke of Aggie's death. He said he was very sorry too—he never saw a girl he thought more of. Once or twice he looked strange when he heard my wife describe her state, as if he did not like to hear it spoken of.

Cross-examined by Mr. MONCRIEFF for the Panel.—On Aggie's door there is a common slip-lock. No key is needed to fasten it on the inside. I was every day at the place where the glass was found. No strangers went there, but all the dwellers in the building went there. I parted with him on good terms, but I feared the police would come to take him. I had not known the prisoner before I hired him.

To the COURT.—I did not think he was courting Agnes, for he was going with another girl. She had complained of him, but not to me.

8. *Agnes Young or Montgomery, wife of Hugh Montgomery, Carrier in Eaglesham, an aunt of deceased.*—On the afternoon of 13th September, Mrs. M'Donald came and asked me if I heard a heavy moaning. I went out to the lobby and heard moans. The others were in the house when I got up. She was sitting in a chair, her feet pressed to the ground, and her face and eyes looking at the ceiling. One of her hands was crumpled in. The doctor was sent for. I did not take any charge, as I was unwell. I heard she had died, and saw her dead when I went up again before six. I did not look the clock. I saw the body on Wednesday night. This cap was on the body when it was buried, and also when it was lifted. I observed the prisoner pass the entry with Janet in his arms, just before the moans were heard. I got this tumbler the day after the funeral. I gave it to Hunter. I knew the body to be that of my niece, when the doctors saw it.

9. *William Young, Labourer in Eaglesham.*—I knew Aggie well, all my days. She was a healthy, cheerful, happy tempered girl, not subject to fits. On Sunday, 13th September, I saw her at twenty minutes past four till about ten minutes to five. She was at the foot of the close. We were talking together for about half an hour. She was quite well and cheerful. I saw prisoner come from Watson's front door and walk

into the entry; she walked into the same entry. I did not see where either went to. I was asked into James Watson's, and if it had not been for that I would have gone to Aggie's. I remained in Watson's half an hour. Fulton and Muir called for prisoner, and I said he was either up in Aggie's or in the garden. We went out in not above ten minutes to the garden. Prisoner was sitting at the coil of hay with Janet. Watson called very sharp, 'Jack, there's somebody wanting you.' He then said it was Muir and the big baker. He rose and came past us. We said to Watson that the prisoner was looking very strange. We were struck with his appearance. The three of us went for a walk; and when we came back, in three quarters of an hour, we heard Aggie was dead. On Monday night, Mrs. Young said to prisoner, 'You would be the last person that saw her alive,' and he said, 'I believe I was.' He did not say when he had seen her. He said he had seen her breaking sticks. I thought he had been in her room. He said he was only at the door and saw her breaking sticks. He had been angry at water being thrown on him a good while before—a month at least. He was swearing at them for it.

10. *Janet M'Gregor, daughter of John M'Gregor, Omnibus-driver in Eaglesham, nine years old.*—I live in same land as Dollar's public-house. Janet Dollar sent me a message to Agnes Montgomery to come and take a walk. It was the day Aggie died. The prisoner was in Aggie's house. She said she would go. It was in the afternoon after church. Aggie asked me to get some table-beer, and I got it at Dollar's. Janet Dollar gave it to me. I gave it to Aggie. Prisoner was still with her. I know Janet Watson; she was in the house. There was no one else in the house. Catherine Cochran was with me. She gave me either a threepenny or fourpenny bit, and I got a penny back, and gave it and the beer to Aggie. The cork was in the bottle. Dollar's is two or three doors from Aggie's. I left and came away.

To the COURT.—I saw no sticks. She had a fire on. There was no need of sticks to kindle a fire.

11. *Catherine Cochran, daughter of William Cochran, Tea-dealer, eight years old.*—I went with Janet M'Gregor to Aggie's house on a Sabbath afternoon, to ask her to take a walk with Janet Dollar. It was the day Aggie died. We went straight to Aggie's. Jack was sitting with her. Little Janet I did not see. Aggie said she would come. She asked us to buy a bottle of beer. We got the bottle and returned with it. Aggie and Jack were there. We gave the beer to her and went away. There was a fire on, but I saw no sticks.

12. *Janet Dollar, daughter of George Dollar, Spirit-dealer, Eaglesham.*—I was at church forenoon and afternoon on 13th September, with Agnes Montgomery. Church came out a little before four. I sent the two previous witnesses to her about five, for her to come and get a walk. She sent them back. I asked who was in the house. They got a bottle of beer for Aggie. I gave a bottle of the same kind to Hunter from the cask. I have tasted the same beer and was not the worse of it. It is good beer. I heard Aggie was badly. When I saw deceased she was in bed; her head was thrown back a little; the eyes were staring; she was insensible. On the Tuesday, I asked prisoner if he got any of the beer, or saw her take it. He said he was going out at the back door as the little girl came in at the front door. The little girl told me he was in the house. I was in the house when Aggie had her brother Finlay with her—a month before, and some water was thrown on prisoner. On the

Friday before she died, she told me that her brother had lost some money from his pocket, and she blamed prisoner for it, as she said he was not good. On 5th November, I gave another bottle to Hunter out of the same cask of beer. I got some empty bottles out of the house. I never told the prisoner that she suspected him of taking Watson's money.

13. *David Clarkson, Slater and Mole-catcher, Eaglesham.*—My house is next Agnes Montgomery's room. I knew her well. On Sunday, the day of her death, I was at home on the afternoon. The door stood open. I saw Agnes come in, and prisoner with her, at ten minutes before five, and the lassie Janet Watson. Before that I saw her go into house alone after the kirk, and she opened the door with the key. She was in a quarter of an hour, and put on the fire, I think, and went out about four o'clock. She opened the door with the key the last time, when all three went in. I saw Janet M'Gregor and Cochran go in and out and return. After they had left a quarter of an hour, I heard a great rumble and a desperate thrash on the floor. I wondered what sort of conduct that was on a Sunday. I thought he had run her down on the floor. He was still in the room. I did not go out. After this, in four or five minutes, prisoner came out, and the little girl, and he locked the door. He went down stairs, and came back in half a minute, and listened at the door (putting his ear to it). He then went away in a second or two. I went down after him with the stoup for water to the well. I passed him and said good-night. I would be away from my house two minutes. I heard a great moaning when I returned. I thought at first it was Mrs. Montgomery, who lives below me. The moaning continued for some time. The baker and Muir came up and listened at Aggie's door, and could not get in. Mrs. M'Donald came in for the key of our coal-cellar. She and Mrs. Watson opened Aggie's door and went in. I went in. She was much swollen and could not speak. I stopped a few minutes. She died shortly after.

Cross-examined by Mr. MONCRIEFF for the Panel.—I was sitting at the side of the fire, on the south side. I did not see the key in her hand. The door could be fastened on the inside. But then the lock made a great noise. Now it goes quite easy. I heard the sound at the time both when fastened inside and outside. I have heard her snib it.

To the COURT.—He locked the door when he came out. It was not fastened inside. I am sure that when he came out he locked the door on the outside.

To the JURY.—I think I might have heard the key taken out, but I paid no attention.

14. *Isobel or Bell Young, or Law.*—I lived on same stairhead as Agnes Montgomery, with my son M'Donald. I was at home on Sunday, 13th September. My door was open. Agnes had been at church. I heard her come home in the afternoon about four o'clock, and unlock the door. I heard her break coals to kindle the fire about five o'clock. She did not go out after that. I heard some one leave about ten minutes past five. I thought it was herself. The person locked the door, went down stairs, and took away the key. The person went down stairs gently. Shortly after that I heard heavy moans. I then found she had not gone out. Mrs. M'Donald and others came up and got Clarkson's key. I did not see her till she was dead. I saw prisoner on Monday. I said it was a wonderful thing which had happened to Agnes. He said it was, and that she was as nice a girl as he knew. I was quite satisfied that the person who locked the door took the key away.

Cross-examined for the Panel.—I thought she had taken away the key. I paid no particular attention. Noise was from locking on outside. I had no doubt that the door was locked on outside.

To the COURT.—I heard like a fall on floor, and a sort of rumbling—feet rustling along the floor. It was a minute or two before the person went out. When person went out no sort of scream—only groans afterwards. I had a grandchild lying badly.

15. *Elizabeth Blackwood or M'Donald, wife of James M'Donald, Joiner.*—Agnes came home on Sunday afternoon, 13th September. I heard her lock door when she went to church. I was in Hugh Montgomery's house quarter before five, then I went up to my own house; remained five minutes. I went to garden; I went to well and turned. I met prisoner and little Janet with him, three yards from corner of washing-house, next well, back building, close to iron gate; he was walking to the well. He said it was a fine day; said he was going to give girl flowers, near to rose-bush. Prisoner's face a little white. I went to front door; saw Fulton and Muir; asked for Jack. I spoke to Mrs. Watson. I had heard cry or low groan at low door. I mentioned it to Mrs. Watson. I went up stairs; moaning came from Aggie's. Mrs. Watson came up; we tried to get in. Got key of Clarkson's coal-cellar and opened door. I went in. Aggie sitting as described: head hung on right side; body quite still. I went for doctor. I saw prisoner. I said, Aggie very ill, and go for doctor. I returned. I saw froth on mouth; very little; it was not then on bed-gown; a little blood, but we found lip and tongue bitten; eyes staring. She turned head a little, but looked as if from distress; right hand stiff and cramped. I saw left foot swelled; quite stiff; continued moving for ten minutes. Great oppression in breathing—slow; came like above breast; can't say if convulsive; sobbing before she died, as if life leaving her. Skin getting quite cold, ten minutes after we got her. I thought a little sweat on face; but I did not feel it. Hot water used; quite still before she got into bed; limbs powerless; eyes not turned up much; not sensible. Did not know us. Eyes never turned after being put to bed, though a little motion before; a full stare all along; never recovered consciousness; got weaker and weaker till she died. Doctor came in ten minutes; he ordered some toddy, but she tasted none. Her sister took off her stays; she never spoke; moans changed to sort of blow. Doctor there, and in three quarters of an hour she died. She died about six. When I went into room I felt a sort of smell. I thought it was a sickening kind of smell; smell affected me a little; nostrils affected, and my throat a little dry. I felt smell as soon as I went forward, like a kind of drink; can't describe smell; can't say if like smell of almonds. On 5th November I was in house; Hunter and Muir, and Dr. Scott there. I saw some liquid put into beer; I smelt beer; I did not at first recognise smell, but I went out and then I knew it to be same smell; affected me in same way; nostrils and throat, but rather stronger. Key (38) is Agnes's key.

Cross-examined by MR. MONCRIEFF for Panel.—Before I smelt beer, I smelt nothing else; smell only a short time as I went out for doctor. I told Mrs. Montgomery of smell in quarter of an hour. I thought if she had vomited, she would have got relief. Mrs. Watson tried to make her vomit. I could not say what she had been taking. On 5th November, I smelt a wee bottle after I smelt beer; no smell in bottle. I saw contents

of bottle spilt. I went out a wee bit. I did not smell it at first; then again went out and returned, and perceived smell then.

To the Court.—Smell blowing like from her; I thought it came from her stomach. Smell on 5th November was something same—as sickening, though stronger. Sister much agitated.

Agnes Montgomery recalled.—Mrs. M'Donald mentioned, that when she went in, she noticed strange smell. She mentioned this that night.

16. *Edward Hinshelwood, Joiner in Eaglesham.*—I was in Watson's, Sunday, 13th September. Prisoner took tea; he went out; I went out shortly after. I, Watson, and Young, went out after prisoner: we met Fulton and Muir coming down stair; they asked for prisoner. At end of washing-house he was on coil of hay; Janet Watson with him; he came back. I saw prisoner was agitated; we all noticed it; he was whitely, and his eyes staring.

Cross-examined for Panel.—I see no odds from now. We went to walk, and found Agnes dead when we returned.

17. *Marion Montgomery or Young, wife of John Young, Carter, a sister of the deceased.*—I heard she was ill. I went to house half six, found her in bed. Dr. Scott there. She died about six. Saw her put into coffin. Prisoner there on Monday night; he was gazing at her. I looked at him, and said, 'Jack, you were the last who saw her alive.' He said, 'Yes,' and turned to door. Gave him glass of spirits; spirits were going at coffin. I asked next morning what she was doing when he left room? I said first, it was a serious call that Aggie had got. He said it was. I then asked what she had been doing when he left? He said she was in the attitude of breaking sticks when he left room. I saw no sticks on Sunday night—a nice bright fire. When I said a serious call, he said, 'Yes,' but turned away. On day she was buried, no further conversation with him. On 13th, things in their proper places. I looked for bottle; I found a bottle below dresser; two gills of beer in it. I emptied it into basin. I gave it for hot water. I did not see tumbler. Agnes and I had, on 10th September, some conversation as to prisoner. Watson had missed money. Agnes said, Jack nothing but blackguard, and Watson would get his eyes opened as to him. I kept Mrs. Clarkson's key till furniture divided. Phial shewn, marked 28, found in house, and claimed by John Ferguson, carrier's boy; given to him. Body very black at time of burial.

18. *James Fulton, Baker, Eaglesham.*—I know prisoner. I and Muir went to see him on Sunday at Watson's; said to be up stairs. I went up; could not get into Aggie's; no key in door; could not get in; knocked; no answer; heard groans; went down; saw prisoner. Muir said, we heard groans in house. Prisoner gave a bit smile; did not speak. We afterwards were in front of house. I said at door of room I thought they were groans. Muir said, surely some one is drunk. Mrs. M'Donald asked us to go for the Doctor. Prisoner went for Doctor. Prisoner went to my house with me. Thomas King there. He said, 'You were the last man in Aggie's house.' He said I was. 'What was she doing?' 'Breaking sticks to kindle fire.' He said, he noticed nothing wrong; a quarter of hour in house. We were together about three.

Cross-examined for Panel.—We agreed to walk; we often did so after five.

19. *William Muir, Cotton-spinner in Eaglesham.*—I went to ask for prisoner on 13th September. Went up to Agnes's; could not get in;

heard groans ; met Watson ; did not mention groans ; found prisoner in the garden ; prisoner was sent for the Doctor. Mrs. M'Donald asked some of us to go for Doctor.

20. *Mary Gemmell, daughter of John Gemmell, Joiner, in Eaglesham*—I was in Bruce's house about half after five, on 13th September, near Dr. Scott's house ; saw some one come across to Dr. Scott's—prisoner. I saw him go back, and stoop at tree. I pointed out tree to Lamb and others. He leant down a moment, went back.

21. *Janet Hogg, Dressmaker, daughter of William Hogg, Tailor in Eaglesham*.—I live with father, opposite public green. I was in our house, on Sunday, looking out ; can see across green to Agnes's house. Saw prisoner coming across ; he went towards Dr. Scott's. I saw him return ; he stooped at a tree in returning ; stooped down to ground for an instant at tree, and went on. I pointed tree to Lamb and Morris.

Cross-examined for the Panel.—After prisoner passed tree, he returned same way as he came, across bridge.

22. *James Kean, Grocer and Cotton-spinner, Eaglesham*.—I saw Morris and officer searching for something on 2d October at root of a tree on the green. I found a key two inches from tree, under longish grass which was lying over key. It was not in ground. I gave key to Robert M'Laurin. I saw Morris try the key. It opened Agnes's door.

23. *John Morris, Detective in Renfrew Police*.—On 2d October, Mary Gemmell pointed out a tree, and Janet Hogg. Kean assisted in our search. I saw him find key at root of tree among grass, rusty ; had lain there from appearance for some time, from rust and earth. It was under grass ; put there for concealment. I showed tree to Lamb. I tried key ; opened deceased's door ; lock made a sound.

Cross-examined for the Panel.—I can't say if much search before.

To the Court.—I heard from girls that they had seen prisoner at tree. Key to one side ; footpath passes. Key on same side of tree as footpath, three or four yards from tree. Much grass over it. Could not be seen or found without proper search.

Re-examined.—I was sent for key and phial, found none ; searched very minutely back green of Agnes's house ; found nothing there.

24. *Janet Walker or Clarkson, wife of David Clarkson, Slater*.—This is Aggie's key. I had key of coal-cellar which opened her door, but her's would not open our cellar. I was in garden next morning after death with Watson. He picked up bits of glass ; very small bits ; glass of small phial. I pointed out place to Lamb.

25. *Hugh Montgomery, Carrier, Eaglesham*.—On Sunday, 13th September, I was in back green about a quarter to five. Went up left hand walk ; the walk on which bits of glass were seen by Watson. Walked along with Mrs. Cameron. There was no broken glass that I saw.

26. *Margaret Montgomery or Cameron, wife of Robert Cameron, Weaver, Eaglesham*.—I was with previous witness on 13th September. I saw no glass at twenty minutes from five. Mrs. Clarkson pointed out place where glass found.

27. *John Watson, Photographer, Portugal Street, Glasgow, brother of James Watson*.—I am a photographer. I saw prisoner at Eaglesham last summer. He spoke to me in Glasgow. On 19th July he came to my house. We were speaking of Madeleine Smith buying prussic acid ; prisoner did not ask about prussic acid ; it was spoken of as a very active poison. I said it would not have answered her purpose, as it was too speedy ; so active that L'Angelier could not have got out of her house.

To COURT.—I said I understood it was so rapid in its effects, that he would have dropped down on taking it. I began that conversation; some one had said was there no quicker poison than the arsenic. This was in presence of prisoner. When I mentioned the above, I said I did not think she had tried to get it.

28. *James Arneil, Painter in Eaglesham.*—I was in house of last witness when conversation took place about Miss Smith's trial. I said if she had got prussic acid, it would have suited her purpose better than arsenic, as it would not have been so easily discovered. John Watson said if she had got it, it would not have answered her purpose at all, as he would have died in house, or on leaving her. I said more difficulty in getting it than arsenic. John Watson said one could be got as easily as other, as all druggists sold it. Mentioned that sold as medicine. I think he said, I am almost sure, that it could be got at Mr. Hart's, druggist in Glasgow. He said very rapid in its action. No mention of destroying consciousness. Prisoner heard all; put in a word occasionally; said Madeleine Smith should be hanged. He paid attention, and turned from one speaker to another. I had seen him before. We sent for the paper in regard to Miss Smith. Found she had tried to get 6d. worth.

The record then bears—

'It being now near six o'clock in the evening; In respect of the impossibility, with a due regard to the justice of the case, of bringing this trial to a conclusion in the course of the present sederunt, the Lord Justice-Clerk, with the consent of both the parties, and in respect of the necessity of the case, continued the diet against the panel till to-morrow morning at nine o'clock, and ordained all concerned then to attend, each under the pains of law; and the hail fifteen jurors, now in the box, being hereby ordained to repair under the charge of the macers of Court, along with John Murray, sheriff-officer in Glasgow, who was duly sworn to do the office, to the Tontine Hotel, Trongate Street, Glasgow, to remain under their charge till brought here to-morrow morning in the hour of cause above-mentioned, and being kept strictly secluded during the period of adjournment from all communication with any person whatever on the subject of the trial, the clerk of court having liberty to communicate with them in relation to their private affairs; meantime ordained the panel to be carried to and detained in the prison of Glasgow.'

SECOND. DAY.

WEDNESDAY, DECEMBER 23.

The Court met at Nine o'clock.

The ADVOCATE-DEPUTE proposed to examine the little girl Janet Watson. He had proved that she was alone in the room with the panel and deceased, and though she was only a little more than

three years old, he submitted that it was the prevailing tendency of the age rather to admit than to exclude evidence. It was for the jury to give such weight as they saw fit to any evidence that was laid before them after seeing and hearing the witness. He referred to Burnet, p. 395 ; Hume, ii. 341 ; Bell's Notes, 246, 247 ; Dickson, pp. 839-841, sect. 1670-1672.

The fact which he proposed to prove was one eminently within the comprehension of the child. A heavy fall on the floor of this room was heard by others from the adjoining rooms while the child was present with two persons whom she knew before, and what he proposed to ask her was, Who fell ?

The LORD JUSTICE-CLERK—I am unable to admit her statement. Certainly, the circumstances are such that I should be very much inclined to admit it if I could. She was in the room and tapped on the window to the prisoner to come up. She witnesses what occurred, no doubt, but then the child is only three years old, and, which makes me more jealous of admitting her statement, this is a case of life and death ; though, no doubt, the competency of evidence is to be judged of by the same rules in all cases : But the admission of a child's statement is matter of discretion, according to the facts of the case. If she had told her mother what occurred, at the time her aunt was ill, the case would have been different. But it is no part of the *res gestæ*, as it was not for sixteen days after that she made any statement. One now sees what the motive of the prisoner was in taking the child away out. It is strange, that while he left on 25th September, it is not for four days that she speaks, and her statement is made in remarkable circumstances. She is alone with her mother in the room, and her sitting on the floor may have recalled to her the scene she had witnessed in her aunt's. Had she spoken out on hearing of the death, the case would have been different. I should then have considered her statement, if made immediately in the course of that evening as part of the *res gestæ*. But we do not know what she may have heard in the meantime. She may have heard them talking, and who knows but that may have suggested it to her ? If she were older, she might have explained all that to us, and why she did not speak sooner, but so young a child can scarcely do so.*

The ADVOCATE-DEPUTE then proposed to ask the mother what the statement of the child to her was. He offered to prove that between the death and the panel's leaving Watson's house on the 25th September, he was in the house during the whole waking hours of the child, with the exception of the hour when the family were at their meals ; that he always, without an exception, took her out with him at such meal times ; that the statement of the child

* It may be interesting, as showing her intelligence, to give the precognition of the little girl. It was as follows :—' Remember my Auntie Aggie. She took me to the kirk. I ken Jack (the prisoner.) Was in Auntie Aggie's house on 13th September. I ken Janet M'Gregor. She brought a bottle of "ginger." (Her mother explains that the child calls anything in a bottle "ginger.") Jack took out the cork and gied Aggie "ginger." She fell down. Jack put her in a chair and took me out. He had a nice little bottle in the garden and put his foot on it. Jack told me not to tell and he would give me a bawbee.

was one reason why information was given to the authorities, and that the panel had promised the little girl "a bawbee" not to tell.

The COURT, however, refused to admit the statement, as not being part of the *res gestæ*.

The prisoner's first declaration was then read as follows. It was dated 1st October 1857:—

My name is John Thomson. I am a tailor, and am twenty-six years of age. I am in the habit of travelling about the country, working at my trade. I was at Eaglesham in September last. I knew Agnes Montgomery. She was sister-in-law to the master with whom I was working at Eaglesham. She worked in the cotton-mill. I saw her on Saturday the 12th, and also on Sunday the 13th of September. On this latter day I met her on the pavement as I was returning from church. James Fulton, baker, and William Muir, spinner, were with me. This was about four o'clock in the afternoon. I went into the house of my master, James Watson, and took my dinner. Agnes Montgomery lived on the floor above him. After dinner I went out again. When I got to the door I looked up and saw Mr. Watson's little girl looking out of Agnes Montgomery's window. She called out to me for a halfpenny which I had promised her that morning. I went up to give her the halfpenny, and she met me half way down the stair. I gave her the money on the stair, and went down with her to the garden. I did not go into Agnes Montgomery's house. I had been about half an hour in the garden when Mr. Watson came to me and said that Fulton and Muir were waiting for me to take a walk. I went to the street and met them there, and was standing talking to them, when Mrs. M'Donald, who lived up-stairs, came down and told me to run for the doctor, as Agnes Montgomery was nearly dead. I did not get any beer that Sunday, nor was I in Agnes Montgomery's house that day. I know John Ferguson, a carrier's assistant in Eaglesham. I did not employ him to get prussic acid for me, nor for a person called James Miller, a portrait-painter in Eaglesham. I know of no such person. I once commissioned Ferguson to get me a sixpence worth of lavender water. I also got some sweet nitre and balsam through him. I was not courting Agnes Montgomery. I never asked her to marry me. All which I declare to be truth. (Signed) JOHN THOMSON.

29. *John Ferguson, Carrier's assistant, Eaglesham.*—I am assistant to Hugh Montgomery, carrier, and have been with him for four or five years. We go into Glasgow on Wednesdays and Saturdays. I have known the prisoner for three or four months. Remember purchasing lavender water and ointment for him on Wednesday before Eaglesham fair, the 19th of August. Got the articles in Hart the druggist's shop at Virginia Street, corner shop of that and Argyle Street. He did not tell me where to get it. On Saturday, 12th September last, was in James Watson's house in Eaglesham. Prisoner was there; also Mrs. Watson. Prisoner asked for pen and ink, and wrote a line for me to get something. He said to get it where I got the other things for him. He gave me the line at the door. Our own goods and all druggist's goods for Eaglesham are got at Hart's. The line was addressed to no one. I can't read writing. He told me to let nobody see the line, and to keep what I got till he sought it from me. He said to me, if asked for whom it was, to say it was for a portrait painter. He said it would cost sixpence, and gave me one. I went to Glasgow that morning. Remember riding that day in a van with

Adam Gall. I showed him the line. He said I would not get it. I said I supposed I would. Went to Hart's. Handed the line to George Stirling, witness, who read the line. He asked who it was for. I said his name is there, for I so understood. I think I said it was for a portrait painter. Stirling gave me some liquid in a phial closed up with paper, and I paid the sixpence. I put the phial in my pocket. Got back to Eaglesham between one and two on Sunday morning. Prisoner came to the stables behind the house about ten on Sunday morning, and asked for his parcel. He said, "Don't tell any one; I'll see you again." I gave it to him in paper as I got it. He told me the stuff was to dye his hair to make it black. He told me this some days before, and that he was going to get some stuff for that purpose. I saw Agnes Montgomery that forenoon. I heard of her death that same day. Saw the prisoner about ten o'clock on Monday morning. No mention was made of Agnes Montgomery. Remember Wednesday, 23d September. Prisoner wrote a line to be taken to Glasgow with a pencil—black inside and red outside. Pencil No. 40 is like it. He wrote it outside of the house on the paling stobs. He told me I was to get a parcel where I got the last. He said I was to keep it till he called for it. He said the parcel would cost sixpence. I said I had money, and he said you'll pay it for me. I took that line to Hart's, and gave it to James Young. I called back in the afternoon; got a bottle of hair oil, which I gave to my master, and also a small bottle, which I put in my left pocket. Master was at the door with the cart. Got back to Eaglesham about one or two on the morning of Thursday 24th. Saw the prisoner that morning about ten at the cart shed. He asked for the parcel, and I gave it to him. It was wrapped up in paper just as I got it in the shop. He said he would see me again. He squeezed the paper, took out the cork, and touched his hair with it. He said if anybody asked what I had bought, to say twopence worth of lozenges. Had the toothache in September. Got twopence worth of creosote from Dr. Scott's. Left it at Agnes Montgomery's. She said she would keep it for me. Was in her house after her death, and got the bottle again. No. 28 is the bottle. It seemed to be in the same state as I had given it to her. Gave the bottle afterwards to Hunter. I had used some. William Cameron was present when I gave the last of the two phials to the prisoner.

30. *Adam Gall, Ham-curer, Stockwell Street, Glasgow.*—I am a ham-curer in Glasgow, and drive a van. I was doing so on Saturday, 12th September. Know the witness Ferguson, and gave him a drive that day. He showed me a line, which said, 'Please give the bearer 6d. worth of prussic acid.' Did not notice whether the line was signed. It was wet at the time, and I just closed it up. I said it was poison, and asked what he was going to do with it. He said it was for an old Irish woman to poison her old man. I understood that to be a joke at the time. I said he would not get it. He said he would get it at old Charlie Hart's. The handwriting was not very plain, but I think I would know it again. Shown No. 37. This is like the handwriting. That letter is signed John Thomson, and dated October 27.

31. *George Stirling, Shopman to Hugh Hart, Chemist and Druggist, Argyle Street, Glasgow.*—Know the witness, John Ferguson. He comes twice a week to the shop. He gave me a line on Saturday, 12th September. It was badly written, and the word prussic acid was not rightly spelt:—'Sept., 1857.—Mr. Hart—Please give the bearer 6d. worth of prussic acid, and oblige—John Thomson.' I asked who John Thomson was. I

got no satisfactory answer. He said he was a tailor in Eaglesham. I asked if Montgomery, the carrier, knew of him being sent for the prussic acid, and he said he did not. I asked what he was going to use it for, and he said, for taking likenesses. I said that was a rare thing to use for that purpose. I gave him a 2 dr. phial, filled with prussic acid. I wrapped it up in paper, and sealed it, so that nothing might go wrong with it till Thomson got it. Remember Wednesday, 23d September. Boy came to the shop that day, and gave a line to James Young for 6d. worth of prussic acid, written in the same way. Young asked me about it. I said the man had got it before and might get it again. I gave a 2 dr. phial. First line was destroyed ten days after. The second I retained for three days. It is lost. Shown No. 37. That is the same handwriting. I gave Alexander Christie, the officer, on 14th October, two phials of prussic acid of the same stock. Shown Nos. 25 and 26. These are the two phials. Remember Ferguson got some hair-oil the second time. The master's cart was at the door.

Cross-examined by MR. MONCRIEFF for the Panel.—I never gave prussic acid for photography before. It was Scheele's prussic acid. Cyanide of potassium is used in photography.

32. *James Kerr Young, Shopman to Hugh Hart, Druggist.*—I was not in the shop on the 12th September. I was in the shop on the 23d. The carrier's boy called that day, and gave me a line, written either in ink or pencil. The line said—'Mr. Hart, please give the bearer 6d. worth of prussic acid.' Showed the line to Stirling, who said I might give it. I gave it. Shown No. 37. That is like the handwriting.

33. *William Cameron, Weaver, Eaglesham.*—Recollect being behind James Watson's house on Thursday, the day before the prisoner left Eaglesham. It was between nine and ten. John Ferguson was there. We were standing together. Saw him give the prisoner something, which prisoner put into his waistcoat. John Ferguson wheeled about, and said, 'What do you want, Willie?' and I went away.

34. *William Montgomery, Prisoner in the Prison of Glasgow.*—I was in the prison in October last, and saw the prisoner write a letter to the Procurator-Fiscal at Paisley. He gave it to the warder, Montgomery. I remained in his cell while he wrote it.

35. *William Montgomery, Warder in the Prison of Glasgow.*—I got a letter from the prisoner to be posted. I handed it to the clerk to be examined. Shown No. 37. This is it.

36. *Cauvine Spittal Alston, Clerk in the Prison of Glasgow.*—I examined the letter No. 37, and forwarded it.

37. *Robert M'Farlan, Writer in Paisley.*—The letter No. 37 was received at the Fiscal's office.

38. *Isabella Montgomery or Renfrew, Wife of Ebenezer Renfrew, Cotton-spinner, West Arthurlie, Barrhead.*—I am a sister of Agnes Montgomery. I was in her house the day after the funeral, when the articles were divided. Got the bottle No. 29 in the house. Could not wash it out properly. There was something dry in it which had been in for some time. Gave the bottle to Hunter.

39. *William King, Weaver in Eaglesham.*—I recollect Agnes's death. One day before I was in the Cross-Keys public-house with the prisoner. He told me he was at variance with some parties, but would do for the b—— yet. I understood him to allude to some of James Watson's people. This would be a month, I think, before Agnes's death.

Mrs. Watson recalled, and interrogated by the LORD JUSTICE-CLERK.—

I understood the prisoner went up to Aggie's room to spend his time with her, not that he was courting her. I did not suspect that he ever made improper advances to her. She made no complaint of him, except about his being a liar.

40. *Janet Young or Wallace, Mill-worker, Eaglesham.*—I knew Agnes. We worked together in mill. She told me, in July, that prisoner had asked her if she would like to stop in Glasgow. She said she would not; that he said that his friends were all dead, and all that belonged to them would fall to him. She said she would be as well where she was. I took it up that he wished her to marry him.

41. *Mary Donald, Mill-worker, Eaglesham.*—Shortly before Agnes died I saw her, near 10, in Dollar's Close—prisoner with her—standing beside each other. I said, 'Agnes, you'll not deny this in the morning.' It was a joke, and she laughed. I noticed nothing between them.

42. *James Bell, Tailor in Lochgilphead.*—Prisoner was three years in my employment. His name is Peter Walker; comes from near Tarbert; father's name is Walker; alive.

COURT—What led to this change of name?—When he returned from transportation he changed his name.

43. *James Fraser, Superintendent of Police for the County of Argyle.*—I know the prisoner; his father's name is Walker; alive.

44. *Alexander Christie, Detective-officer at Paisley.*—I was at last Circuit, on 30th September. Mrs. Watson came to me as Court was going on; gave information of murder, and about it. I apprehended prisoner. She pointed him out, near Court. I told him he was charged with poisoning Agnes Montgomery. He said, 'Do not mention that here.' Mrs. Watson close by. Then, further off, said, 'You'll surely not bring that charge against me.' Said he would admit taking £1. I said he knew best himself if guilty. I told him I was officer. He said he was in house, but did not give woman anything. He left house woman was in after she took ill. I understood from what he said that he was in her presence when she took ill. I asked him if he had ever bought prussic acid. He said, 'No, but had used it for his hair.'

LORD JUSTICE-CLERK said this was going further in questions than an officer should do.

I got two phials of prussic acid from Stirling at Hart's. I asked for same Ferguson had got. I took one bottle, 25, to Dr. Douglas Maclagan, Edinburgh, that night, 14th October; 26 I gave to Dr. M'Kinlay, Paisley. I searched prisoner—39, 40, 1, 2—found all then—a parcel found. On 4th November I got from Dr. M'Kinlay some prussic acid. I went to Eaglesham on 5th. I got a bottle of beer; Hunter brought it. Some of the prussic acid poured into beer, and spilt on floor. Mrs. M'Donald smelt; and last time she was out she said it was the same smell she felt when she went into Agnes's room, and had same effect on her nostrils and throat.

Cross-examined.—Mrs. M'Donald smelt prussic acid by itself; said had not same smell. I was not conscious of smell at phial. I went out and felt smell.

45. *Robert Hunter, Superintendent of Police of Renfrew.*—Was in Dr. M'Kinlay's, 6th October. Got tin-box from the father, Dr. M'Kinlay, senior. I took that box on 8th to Dr. D. Maclagan, in same state, and under my charge all the time. On 4th October I handed bottle of beer from Dollar (27) to Dr. M'Kinlay. I got it back on 21st October, half full of beer. Sealed in my presence. Gave it to Dr. Douglas Maclagan

in Edinburgh. I got phial, 'Creosote Poison,' from Ferguson. Got from Mrs. Montgomery a tumbler (30). Got a scent-bottle from Mrs. Renfrew (29). I gave the scent-bottle, and creosote, and tumbler, to Dr. D. M'Kinlay. I got bottle of beer from Dollar. We mixed some acid with that beer, and it was this which Mrs. M'Donald smelt. On 7th November went to Glasgow prison. I cut some hair off prisoner's head and whiskers; put them up in different packets; gave them to Dr. M'Kinlay.

46. *William Bryson, son of Mrs. Bryson, Innkeeper, Eaglesham.*—My mother has a public in Eaglesham. Watson and Muir, and prisoner with him; ten minutes in on 25th, Friday.

47. *James Jackson, Spirit-dealer in Clarkston, on road to Glasgow.*—Prisoner came in on 25th September. I think I sold him some whisky in pint bottle.

48. *Agnes Mason, house in John Street, Glasgow, wife of Archibald Mason.*—I know prisoner. He lived in my house at one time. He came for two nights beginning of September. He returned on 25th September at night; came back at half after eleven. I was not in bed; my husband was. He went into husband's room; took out a bottle—pint bottle. I gave Thomson a glass. I went down for some water. I put water on table. Prisoner gave me a glass. I think glass was in prisoner's hand; glass full. I took glass—drank about a third. I sat down ten minutes. Went down with some clothes. Felt a queerness all through system; giddy; saw double. There was a bitter feeling about throat. I had clothes in my arm. I became powerless; hands and feet; clothes dropped. I crawled up stairs on hands and feet. I could not walk steady. I said when I got glass, Oh, John, that's not good whisky. He said, best Paisley whisky. It was my glass he used. Said I would be better of glass, for I had been working all day. Prisoner told me to take some more when I got up stair. I was very unwell, I vomited a good deal. I said to husband and prisoner that I was very sick. Prisoner said, I perhaps had taken something which had disagreed with me. I said I had taken nothing since five. I was perfectly well when I got the glass. I said, what I took at five could not disagree with me. I was very ill all night; cold shivering all over me; inclined to vomit; vomited a little on Saturday, and on Sabbath a good deal; purging a good deal on Saturday night. I got seidlitz powder on Sunday; I vomited it; I was much weakened; I was up and down on Saturday; on Sunday and part of Monday in bed; feet and legs cold as ice. Had to get warm water on Sunday; cold all Friday night and Saturday. I slept down stairs on Friday night. Husband came down on Saturday morning. I went up to get the bottle. Prisoner in bed; a bottle was below window sole. We thought something wrong about whisky; put some into a phial, and returned bottle to place. Husband went to police, about eight, to give information against prisoner about clothes; police came. I went up before that; prisoner in chair; offered me some more whisky; said, he took what I left and was not the worse of it. I had told him that I had been very ill during night. Police took prisoner away. I saw bottle in room. I put it in pantry press. Husband took bottle on Monday or Tuesday to workshop: told a workman to taste it. Husband a manufacturer. Two officers came for bottle. I went to workshop; found husband. Husband had bottle in corner behind board. Officer got it. I saw that. I gave it at my house to officer. He poured a little into a phial; sealed bottle, No. 44; No. 46 is the glass; full when prisoner handed it to me. Mrs. Stewart, boy, and other lodgers in house.

Malone in London. Husband said, when I came up, he felt bitter in throat, and felt a sort of flush or heat over face. Husband said not very good whisky; would not take any more.

Cross-examined by Mr. MONCRIEFF.—Prisoner had been on good terms with us, and I never had a more agreeable lodger. Always friendly; called me mother. I felt burning heat in stomach that Friday night. I vomited very much; felt very ill on Saturday morning, but worst on Saturday night and Sunday morning. I got bottle on mantelpiece. First thing I did was to put it into pantry press. Lodgers do not use it. I think husband took it away on Monday night or Tuesday. I saw it next when police came for it, on 1st October. Workmen are in place.

Re-examined.—I never put anything into bottle. I never tasted it—too much afraid of it.

To the COURT.—I had told husband how ill I had been, and then he wished me to get bottle.

49. *Archibald Mason, Manufacturer, John Street, Glasgow.*—I am not a manufacturer, but have some workmen. House in John Street, workshop 104, Candleriggs. When I was in bed, prisoner came in, past eleven, on 25th September—wife up. He brought a small black pint bottle; offered me glass of whisky; poured some into glass—full—gave me glass; I tasted it—very little—half thimbleful; not good taste. I thought face a little flushed; some bitter, sourish taste. Can't say throat suffered. This all the effect on me. I do not think I said anything to him. He said, best Paisley whisky. Wife went for water; returned immediately. She was offered a glass. She took a third of it. She went down with some clothes. Returned in five minutes. Said, she was quite stupid and dizzy; seemed ill. Said she had been vomiting, and crawled up stairs. Prisoner in room; spoke of the goodness of the whisky. I slept up stairs and prisoner. Bottle on mantelpiece. I got up before prisoner. I went down stairs. She told me she had not been well. I asked to see, and to bring down the bottle. She brought it down. I poured some into phial, and she took back bottle. I then went to police that morning. Prisoner taken away a little past nine. I had not spoken to him about clothes. I got bottle on Monday on mantelpiece. I took bottle to workshop. I gave tasting of it to Robert Waddell. I then put it behind a board. No other saw it. An officer and my wife came for it. This is bottle. I marked label; name there. I put nothing into it. The people who worked there were Waddell, Thomas Erskine, A. Snedden, John Grant, Isabella Ross. I gave phial, on Sunday, to Miller, surgeon, George Street. He put it to his tongue; gave it back. Can't say if put back into bottle. Wife complained and continued ill.

Cross-examined.—Prisoner was liberated on Tuesday. I was at workshop. Bottle was never out of workshop till officer got it. Waddell took very little. Can't say if Waddell knew where it was. If searched for, bottle might have been found.

50. *George Miller, Physician and Surgeon, George Street.*—Mason brought a phial; said, he thought something wrong. I was rather occupied. I paid little attention; had peculiar smell; thought it resembled methylated spirits, that is, a compound of naphtha and spirits of wine.

51. *John Hogg, Compositor.*—I lodged with Mason. Prisoner there in beginning of September. On Friday 25th, heard prisoner's voice; did not see prisoner. Mason next morning had a bottle. I tasted it. Head got heated, and flush round ears and mouth; much heated; peculiar taste

of something. Malone tasted it; he spat it out. Prisoner taken away. I saw pint bottle. I put nothing into it. I think I did not see it again.

52. *Margaret Fleming or Stewart, wife of James Stewart, Photographer.*—I lived in Mason's. On Friday night I heard prisoner come. Next morning Mrs. Mason complained of being ill from giddiness, when she got some spirits from prisoner. On Sunday worse; vomiting and purging. I did not see pint bottle. I tasted phial; sourish, bitter taste. I just tasted it. I did not see pint bottle. Boy James six years old. He did not touch the bottle, and had no access to press in pantry. Boy shown. Small child.

53. *Robert Waddell, Warper.*—Last September was in workshop of Mason. Mason asked me to taste whisky; a little in mouth. I swallowed it; bitter taste. I objected to it. I was a little dull after it, for an hour or so. He put it into a corner behind a board. I never touched it. I think girl Ross saw it.

54. *Thomas Erskine, Warper.*—Was in workshop. Did not see Mason have a bottle.

55. *John Grant, Warper.*—Was in workshop. I did not see pint bottle there.

56. *Archibald Snedden, Teacher.*—Was in workshop. I did see a bottle behind board. Did not touch it. Did not know what was in it.

57. *John Smith, Warper.*—For two days in workshop. I did not see a bottle.

58. *Isabella Ross, little girl in workshop.*—I saw bottle behind a board. Did not meddle with bottle.

59. *Robert M'Laurin, Constable, Renfrewshire Police.*—I went on 1st October with Hunter, lieutenant of police, to Mason's house to get pint bottle. Went to workshop. Hunter got it labelled; this bottle. A small phial got. Some of bottle put into phial. Bottle sealed up. Not phial. Went to Hart's. He smelt it. This phial (45). Went to Court-house. Delivered to Dr. M'Kinlay then at Court. I found letter from Mason to Watson about prisoner, which led me to go to Mason's. Heard of Mrs. Mason's illness; asked if any stuff still in house, and told that husband had it, and we went and got bottle.

Robert Hunter recalled.—Went to house of Mason with previous witness. Got bottle. Poured some into phial (45). Bottle sealed. Took phial to Hart's. Carried bottle and phial to Dr. D. M'Kinlay; 44 bottle. On 15th October got back bottle. Had not been opened. I gave it to Hart. Gave it to Gray before Hart. On Saturday, 14th November, received same bottle from Dr. D. Maclagan; gave it to Dr. M'Kinlay. Had been opened and again sealed.

60. *George Gray, Sheriff-Clerk's Office.*—On 15th October, got bottle from Hunter. Gave it to Dr. D. Maclagan; 44 sealed.

61. *Hugh Hart, Druggist in Argyle Street.*—Hunter called on me with phial at time of last Circuit. I smelt it. I thought it strongly impregnated with prussic acid. I marked bottle, and gave it back.

The Prisoner's Second Declaration was then read as follows, it was dated 21st October :—

My name is John Thomson, I am a native of Argyleshire, twenty-six years of age, a tailor, and I last resided in Eaglesham. I lodged for some time in the house of Archibald Mason, in John Street, Glasgow. I cannot say whether I was lodging there on the 25th September last. I

think I was in his house one night only last September. I remember it was a Friday night, and both Mason and his wife, Agnes Stenhouse or Mason, were in the house. I had no money, and I asked Mrs. Mason for the loan of a sixpence. She said she had not a sixpence, but she would give it to me next morning. I had no drink either with Mason or his wife that night, and I saw no drink going in the house. There were several lodgers staying in the house, but I did not see any of them. I am now shown a bottle having a sealed label attached thereto, which is now docketted and signed by me, and the Sheriff-Examinator, as relative hereto, but I never had in my possession that bottle, or any one like it, and I had no bottle in my possession that night in Mason's house. It would be about ten o'clock at night, on said Friday, when I went to Mason's house, having walked from Eaglesham. I got nothing to eat or drink in Mason's house that night, and I saw nobody eating or drinking there. I went to bed, after I had been about ten minutes in the house. Archibald Mason went to bed about the same time, and we slept in the same bed. There was just one bed in the room, and there was no one else sleeping in it. I awoke about eight o'clock next morning, when I found that Mason was up and away. After I was dressed, Mrs. Mason told me I was wanted in another room, and on going into it I found a policeman waiting, who apprehended me on a charge of stealing clothes from one of Mason's lodgers, of the name of Hogg. I was taken to the Police Office on that charge, and I got no breakfast, and had nothing to eat or drink in Mason's house that morning. I did not hear Mason or his wife complain of being unwell during the time I was in their house on said occasion. I bought no whisky on said night, either in Eaglesham, or on my way from it to Mason's house; and I had no whisky with me when I went to Mason's house. I did not give or offer any whisky to Mason or his wife. I left Eaglesham about seven o'clock on said Friday night, and came to Glasgow; and previous to leaving, I had been in Bryson's public-house in Eaglesham along with James Watson, in whose house I lived there, and a cotton-spinner of the name of William Muir, residing in Eaglesham. I was not aware, before going to Mason's house on the night above referred to, that I was suspected of having stolen the clothes from his house. I know John Ferguson, who assists Hugh Montgomery, the Eaglesham carrier, but I never sent him to purchase any prussic acid; and I never wrote, or gave him any writing, instructing him to get prussic acid for me. I never on any occasion bought prussic acid, or sent any person to buy it for me, and I don't know what it is. And this I declare to be truth.

(Signed) JOHN THOMSON.'

62. *David Scott, Surgeon in Eaglesham.*—I am a doctor in Eaglesham. I went on Sunday, 13th September, to see Agnes Montgomery, about half-past five. I saw her. Mrs. Watson was there. Deceased was apparently quite unconscious; supported or leaning against a table; not in bed; still; no motion; the eyes open, staring, fixed; pupils dilated considerably; no motion in the eye; not upturned; breathing with considerable difficulty, rather slowly; respirations occasionally deep; no convulsive respiration; great heaving of breast at times; pulse very weak, not slow, but I did not count it; regular; I think between 70 and 80. I did not feel the skin then; afterwards moderately natural, neither cold nor warm; no perspiration. I felt the skin ten minutes after I went into the room, and again in other ten minutes; skin then getting cold. I

continued in the room three-quarters of an hour, or an hour. Pulse continued very weak; no variation in rate. Any tetanus?—Jaw was firmly contracted; that is a symptom of tetanus. I did not observe the right hand nor the left foot. I saw her put to bed. I tried to bleed her; that is, I tied up her arm, but no vein rose. I saw her disinterred, but I could not identify the body; the features were much changed, and the face very black. The Report, No. 1 of Inventory, is signed by me, and is a true report.

Cross-examined by MR. MONCRIEFF for the Panel.—I gave a certificate of her death. I thought it was apoplexy. I gave it to the Registrar a few days after the death.

To the COURT.—I paid no attention to the rate of the pulse. I do not think I said anything about the sudden death. I heard the girl had been quite well shortly before; well at five, I heard. A constable comes occasionally; the station is four miles off. I did not send notice to the constable of the sudden death.

The LORD JUSTICE-CLERK recommended him in future to do so.

63. *Robert Hamilton, Grave-digger in Eaglesham.*—I made the grave for Agnes Montgomery. Saw her coffin again on the 30th September. When disinterred it was taken to the church. It was the coffin of Agnes Montgomery. William Murray assisted me.

64. *William Murray, Assistant-grave-digger.*—I saw the funeral of Agnes Montgomery. Saw the coffin afterwards raised. I knew it to be hers. The ground was never disturbed.

65. *Daniel M'Kinlay, Doctor of Medicine and Surgeon in Paisley.*—I have been upwards of thirty years in practice, and have frequently made *post mortem* examinations and chemical analyses. I was engaged in Mrs. Gilmour's case, and for the last twenty years have been engaged in every important medico-legal case in the Upper Ward of Renfrewshire. I went to Eaglesham along with my son, Dr. Walter Boyd M'Kinlay, and met Dr. Scott. We went to the churchyard. Some of the relatives were present, and the body was identified as that of the deceased Agnes Montgomery, by Mrs. Montgomery, Mrs. M'Donald, James Watson, and the grave-diggers. The body was examined by us.

Witness was then shown the Report, No. 1 of Inventory, and read as follows:—

' Paisley, 3d October 1857.—By instruction of Robert Rodger, Esq., Procurator-Fiscal, and in virtue of a warrant from the Sheriff of Renfrewshire,—We the undersigned, on the afternoon of the 30th September 1857, within the parish church of Eaglesham, parish of Eaglesham, and shire of Renfrew, made a *post mortem* examination of the body of Agnes Montgomery, reeler, aged about twenty-seven years, who, according to an extract from the book of the Register of that district shown to us, had died on the 13th, and was interred in the grave-yard adjoining the foresaid church on the 17th September last. The coffin was exhumed in our presence by Robert Hamilton and William Murray; and the body contained in it identified as that of the foresaid Agnes Montgomery, by Agnes Young or Montgomery, wife of Hugh Montgomery, carrier, Elizabeth Blackwood or M'Donald, wife of James M'Donald, joiner, and James Watson, tailor. There was neither wound nor other mark of external violence perceived on any part of the body. The face

was much swollen and very dark, nearly black in colour. The cuticle, or scarf-skin, was either separated, or separable, from the subjacent true skin. The tongue was swollen, and protruded between the front-teeth. The eyeballs protruded from their sockets; the cornea quite opaque. The trunk of the body was swollen and considerably advanced in decomposition; the skin covering it was of a greenish yellow colour, and greasy feel. The fingers of the right hand were firmly bent inwards. On proceeding to lay open the cavities of the body it was observed that there was a large proportion of cellular substance between the skin and muscles, and over the body in general. In the chest, neither pleural cavity contained the least effusion of any kind. The lungs were shrunk into the back parts of the chest. They had a soft, but not spongy feel, and were at no part crepitant, the lower parts having become slightly pultaceous. No effusion in the cavity of the pericardium. The heart was normal in every part, and firm in structure; the external surface of it was slightly reddish, and the lining membrane of the ventricles had a similar hue. There was no blood in any of the cavities of it, nor in the large vessels connected with it. The whole of the substance of the heart was removed, and placed in a clean air-tight jar, for future examination. There was not the slightest effusion of any kind into any part of the abdominal cavity. The external coat of the stomach was slightly reddish, and the body of it much distended by flatus. Both ends of it were carefully secured by double ligatures, with as little disturbance either of it or the adjacent parts as possible, it was then removed from the body, and a small opening made into its cavity, near the cardiac orifice. The odour exhaled through that opening was carefully noted by each, separately, and considered as unlike that of any other part of the body, the odour of decomposition being distinctly modified by another odour. The inner coat was slightly reddish; at no part was it abraded, ulcerated, or thickened, nor did it exhibit any appearance of pre-existing inflammation. Its cavity was quite empty, having neither solid nor fluid contents. It was speedily put into a clean glass-bottle, which was immediately sealed and labelled. The liver was rather below the usual size, very dark in colour, and softened in structure by a progressing decomposition. A piece of the right lobe was removed and placed in a clean glass bottle for future examination. The spleen was considerably advanced in decomposition, a portion of it having become pulpy. It was, however, removed entire, and placed in a clean glass bottle for examination. The intestines, with the exception of a blush of redness on their external surface, were normal in their appearance. The colon contained a small quantity of feculent matter, partially consistent. The duodenum, jejunum, and a small portion of the ileum, and small portions of the colon and rectum, were removed and placed in a clean air-tight jar for future purposes. Neither the stomach nor bowels seem to have progressed so far in decomposition as the other organs of the body. The uterus was normal, and of the usual size of one in the unimpregnated state. The kidneys were normal; the right was removed, and placed in a clean jar, for future use. The bladder was empty. On removal of the skull-cap the membranes of the brain appeared pale, and without any congestion of blood-vessels. The substance of the brain had degenerated into a whitish pulp, of nearly fluid consistence. From the advanced stage of decomposition into which the greater part of the body of the before designed Agnes Montgomery had passed at the period of our examination of it, we are unable to assign from it the cause of death. It is evident, however, that it was

neither from external violence, protracted disease, nor structural change in any of the important organs. This we certify on soul and conscience.

(Signed) ' D. M'KINLAY, M.D.
' W. B. M'KINLAY, M.D.
' DAVID SCOTT, Surgeon.'

Examination resumed.—It is a true report. There were no appearances whatever of death by apoplexy. So far as appearances went, I may say that death was not caused by apoplexy. There were not the slightest symptoms of it. I never saw a case of apoplexy in which no indications of it could be found. Where death resulted so quickly, there would certainly, if apoplexy was the cause of death, have been effusion of blood, and there was not in the *post mortem* appearance, the slightest trace of any such thing. The indications I would have expected to find, of death from apoplexy, were all absent. I and my son made the chemical examination. My son has been assisting me for twelve years, and has had great experience.

(The witness was then shewn the Report, No. 2 of Inventory, and read as follows :)—

' Paisley, 15th October 1857.—We, the undersigned, having made a chemical examination and analysis of those parts of the body of the late Agnes Montgomery, resident at Eaglesham, which were removed by us, and are specially mentioned in the Conjoint Medical Report, dated Paisley, 3d October 1857, and signed by the subscribers, and Mr. David Scott, surgeon, Eaglesham, have to report :—The stomach, which had been carefully preserved in a sealed bottle since its removal from the body, was divided into two equal portions. The one part was placed in a clean bottle, which was immediately sealed. The other part was placed in a wide-mouthed phial, over the mouth of which a watch-glass, the centre of the concave part of which had been previously moistened with a solution of the nitrate of silver, was inverted, and luted down: the bottom of the phial was then placed in water at the temperature of 60° for the space of twenty minutes; upon its removal, a faint white deposit had taken place upon the part previously moistened. This deposit did not disappear upon the addition of nitric acid. The process was immediately repeated, having taken another watch-glass, and instead of nitric acid, liquor potassæ was used, and to this was added a solution of the sulphate of iron, and then a drop of sulphuric acid, when in the mixture a bluish colour was produced. A drop of hydro-sulphuret of ammonia, having an excess of sulphur, was placed upon a watch-glass, and the watch-glass similarly inverted over the phial, containing the half of the stomach; the phial was then placed as before, at a temperature of 60° for the space of twenty minutes; the watch-glass was then removed and carefully dried, when upon a solution of the perchloride of iron touching the residue left in the glass, a reddish colour was produced, which disappeared upon the addition of a solution of corrosive sublimate. Three-fourths of that portion of the stomach reserved by us was then cut into very small pieces, and with a quantity of distilled water, acidulated with sulphuric acid, placed in a proper apparatus for distillation. This was conducted at a temperature of 212°. Minute portions of the distilled fluid were then subjected in test-tubes to tests; upon the addition of a solution of the nitrate of silver, a white precipitate was obtained, which was not re-dissolved

by the addition of nitric acid. To a second portion was added caustic potash, and afterwards the solution of the sulphate of iron. The mixture was then carefully stirred with a glass rod, a minute quantity of hydrochloric acid added, when a faint but yet distinct blue colour appeared. To a third portion, a small quantity of recently prepared hydro-sulphuret of ammonia, with an excess of sulphur was added, and the mixture carefully evaporated to dryness; upon the addition of a solution of the perchloride of iron to the residue, a reddish colour appeared, which, upon the addition of a solution of corrosive sublimate, was destroyed. Other corroborative tests were used, all of which tended to confirm the above results. The larger part of the half of the portion of the liver retained by us was then taken, and a watch-glass moistened with the solution of the nitrate of silver inverted over the mouth of the phial in which it was contained; the phial was then, as in the case with the stomach, placed at the temperature of 60° , but after half an hour no perceptible deposit had taken place on the watch-glass. The whole of the liver in our possession was then cut into small pieces and subjected to distillation in the manner similar to the portion of the stomach. The various processes adopted with the distillate from the stomach were then in succession had recourse to, but no very distinct results obtained. The portions of the intestines, the heart, and the kidney, in our possession, were then in succession similarly treated as we did with the stomach, without obtaining any very well-marked result. When, however, the spleen was taken and a watch-glass moistened with the solution of the nitrate of silver, inverted over the mouth of the phial, in which it was contained, after its withdrawal a slight cloudiness appeared on the watch-glass. This was, however, scarcely so distinct as to induce us to regard it as a decided test. A watch-glass, moistened with the hydro-sulphuret of ammonia, with an excess of sulphur, was then substituted; when removed, upon adding a few drops of the solution of the perchloride of iron, an approximation to reddish discolouration appeared, which discolouration was obliterated by a solution of corrosive sublimate. The whole of the spleen in our possession was then subjected to distillation, in the manner formerly stated, and the tests before enumerated applied to the distillate, without, by any of them, obtaining a result that could positively be relied on. The perfect purity of the articles used in the various processes was carefully tested previous to their application, and for each of the organs a separate apparatus that had not previously been used was taken. After mature consideration of the above detailed chemical examination and analysis of the before-enumerated portions of the body of the deceased Agnes Montgomery, we are of opinion that hydrocyanic acid, commonly called prussic acid, was present in the substance of her stomach, and probably in very minute quantities in some of the other organs analyzed, although the results obtained in our analysis of them were not so strongly marked, as to warrant us positively to affirm that it was present. This we certify on soul and conscience. (Signed) D. M'KINLAY, M.D.
'W. B. M'KINLAY, M.D.'

Examination resumed.—That is a true report. There was unequivocal proof of the presence of prussic acid in the stomach. Had I not had satisfactory proof of prussic acid being in the stomach, I would have gone more minutely into the spleen. But I was so thoroughly satisfied of its presence in the stomach, that I did not consider that so necessary. Besides, I sent away to the Crown-Agent the best part of the spleen, that

is the part with most blood in it, and retained the part least likely to afford prussic acid. We put up six different portions of the body of deceased into bottles, and sent them away for separate analysis. No. 19 contained a portion of the stomach carefully sealed up. No. 20, a portion of the right lobe of the liver, sealed up—they were all sealed up; No. 21, part of the heart; No. 22, part of the spleen; No. 23, half of the kidney; No. 24, portion of the duodenum and ileum. The bottles were perfectly clean. The substances were in the same condition as when taken from the body. I put the bottles into a tin box, which was soldered up. I gave it to Robert Hunter, Superintendent of Police, in presence of the Procurator-Fiscal. I got from Christie a bottle for analysis. It is No. 26. I examined the phial and prepared a Report.

(Witness was then shewn the Reports Nos. 3, 4, 5, 6, of Inventory, and read as follows:—

*' Paisley, 21st October 1857.—*We, the undersigned, on the 15th inst., received from Alexander C. Christie, detective officer of the Renfrewshire County Police, a clear glass one-ounce phial, filled with a transparent liquid, the cork secured by a covering of thin white leather, and an adhesive label, on which was printed, "H. Hart, Chemist and Druggist, Glasgow;" and written, "Prussic Acid, Poison," around it. A portion of the liquid, contained in said phial was subjected to analysis, and found to be the ordinary hydrocyanic acid of the shops, commonly sold under the designation of "Prussic Acid." In regard to its quality, by a careful quantitative analysis, it was found to contain within a fraction of four per cent. of pure anhydrous hydrocyanic acid. This we certify on soul and conscience.

(Signed) D. M'KINLAY, M.D.
' W. B. M'KINLAY, M.D.'

*' Paisley, 22d October 1857.—*On the afternoon of the 4th instant, we received in our laboratory, from Mr. Robert Hunter, Superintendent of the Renfrewshire County Police, a black quart bottle, filled with a brown liquid, sealed and labelled, the label bearing date, "Eaglesham, 4th October 1857," and signed by Robert Hunter, Janet Dollar, and others. A portion of the liquid contained in said bottle was taken, and after a careful and minute examination of it, it was found to consist of table beer of good quality, and in good condition, of the ordinary strength, and free from any deleterious ingredient. In our chemical analysis of it, we specially examined, by proper tests, whether it contained any strychnine, hydrocyanic acid, opium, arsenic, or any other of the more important poisons; but not the slightest trace of any of them was found. After the completion of our analysis, there still remained in the bottle about half the quantity of the beer it originally contained; the bottle was resealed by us, and with the original label still attached, delivered over to the foresaid Mr. Robert Hunter yesterday morning, for the purpose of being placed at the disposal of the Crown-Agent. This we certify upon soul and conscience.

(Signed) D. M'KINLAY, M.D.
' W. B. M'KINLAY, M.D.'

*' Paisley, 19th October 1857.—*On the 1st instant, Mr. Robert Hunter Superintendent of the Renfrewshire County Police, delivered over to us, in the Fiscal's room, attached to the Justiciary Circuit Court in Glasgow, a black pint bottle, containing nearly a gill of a seemingly transparent liquid. The bottle was sealed and labelled, the label bearing date, "Glas-

gow, 89, John Street, 1st October 1857," and signed by Archibald Mason and others. At the same time he gave us a small phial, containing about two drachms of a transparent liquid, which he stated he had taken as a sample from the pint bottle. This phial we immediately sealed in his presence. A small portion of the liquid contained in said phial having been tested by us, it was found to consist of alcohol, water, and hydrocyanic acid. As we reserved the making of a quantitative analysis to a future period, we are unable to state in what proportions these articles existed in said liquid. During the time the bottle and phial were in our possession, they were carefully preserved under lock and key. The seal of the bottle, when we returned it to Mr. Hunter, on the 15th instant, was in the same perfect condition as when received by us. The phial was only opened by us while we were pouring out a small quantity of its contents for the purpose of being tested; it was then resealed by us, and in that condition returned to Mr. Hunter on the 17th instant. This we certify on soul and conscience.

(Signed)

' D. M'KINLAY, M.D.

' W. B. M'KINLAY, M.D.'

' *Paisley, 20th November 1857.*—On the afternoon of the 1st October last, within the Fiscal's room, attached to the Glasgow Justiciary Court, Mr. Robert Hunter, Superintendent of the Renfrewshire County Police, delivered to us a black pint bottle, containing about a gill of a seemingly clear liquid; the bottle was securely sealed and labelled, the label bearing date "Glasgow, 89, John Street, 1st October 1857," and signed "Robert Hunter, Archibald Mason, Agnes Stenhouse or Mason, and Robert MacLaurin." That bottle remained in our possession, carefully locked up, with the seal unbroken. We returned it to the said Mr. R. Hunter, on the 15th of that month, in the same condition as we had received it. The afternoon of the 14th instant, Mr. Hunter brought back to us the same bottle, sealed, and on the label were two additional docquets, the former dated "16th October 1857," and signed "George Gray," and the latter dated "Glasgow, 21st October 1857," and signed "John Thomson, Henry Glassford Bell." The liquid contained in the bottle was carefully measured by us, and found to be two fluid ounces and five drachms of a clear liquid, having the odour of prussic acid and alcohol. A small portion of the fluid contained in said bottle was poured into a test-tube, and to it was added a solution of nitrate of silver, when a white precipitate, being the cyanide of silver, fell down. This precipitate was not dissolved by the addition of the nitric acid. A second portion of the liquid from said bottle was poured into a very small evaporating bason, and to it was added some hydro-sulphuret of ammonia, with an excess of sulphur; the mixture was slowly, and very carefully, evaporated to dryness; upon pouring upon the dry residuum a solution of the perchloride of iron it assumed a red colour, which colour was destroyed by the addition of a solution of the bichloride of mercury, thus showing that the sulpho-cyanide of iron had been formed. To a third portion of the liquid from the bottle was added a minute quantity of caustic potash, and then a solution of sulphate of iron; upon the addition to this mixture of a few drops of dilute muriatic acid it gradually assumed a blue colour, the sesquiferro-cyanide of iron, commonly known as Prussian blue, having been formed. A fourth portion of the liquid was taken from said bottle, and to it was added gradually a solution of the nitrate of silver; the mixture was then filtered, and to the filtered fluid was added a small piece of the bichromate of potash, and then a very little

sulphuric acid, the green oxide of chrome was formed, and a distinct odour of aldehyde felt, thus showing that the fluid contained alcohol. A fifth portion of the liquid contained in the bottle was treated with a solution of the nitrate of silver. This caused a white curdy-looking precipitate to fall down; a small quantity of nitric acid was added, and after filtration the filtrate was carefully washed and properly dried and weighed; the filtered fluid was distilled until all the alcohol had passed over, when the specific gravity of the distilled fluid was taken. From the above detailed analysis and corroborative tests we found that the fluid contained in said black pint bottle consisted of hydrocyanic acid, alcohol, and water, in the following proportions. In each fluid ounce there was of anhydrous hydrocyanic acid 0·87, alcohol 108·9, water 382·23 grains. The above we certify on soul and conscience.

(Signed) 'D. M'KINLAY, M.D.
'W. B. M'KINLAY, M.D.'

Examination resumed.—These are all true Reports. The modifying odour spoken of in the first Report was noted at the time by the examiners. We three, each separately, smelt the stomach, and made up our minds, and afterwards conferred on the impression made on each of us. Dr. Scott said, 'I feel a different odour from the stomach than from any other part of the body,' but could not assign the cause. My son said he felt a slight smell of bitter almonds. I said I thought so too, but that it was very slight. We all agreed that there was an odour present which modified the smell of decomposition. The slight smell of bitter almonds might indicate the presence of prussic acid. It coincides with the results of the other experiments which I made chemically afterwards. If a person in good health gets prussic acid in a dose sufficient to destroy life in three-fourths of an hour, what would be the symptoms?—In a few minutes insensibility, loss of power of motion; if erect he would fall down; eyes fixed, prominent, glistening, and staring on vacancy; pupils dilated, insensible to light; tetanus, the hands clenched and teeth drawn together; foam at the mouth; laborious breathing, not rapid, latterly performed more by the muscles of the belly than of the chest; the pulse weak, and growing gradually weaker, becoming thready, that is, easily stopped; sensibility would not return, and there would generally be cold, clammy skin. Suppose a person in good health to be taken suddenly ill, and, when seen immediately after, found in a state of insensibility, her head leaning on a table, deep moans escaping from her, her eyes staring, fixed straight forward, her face swelled like to burst, her hand clenched, the jaws locked, nothing remarkable about the pulse but weakness, a thick slaver coming from the mouth, What would you consider the cause of death?—I should say, keeping prussic acid in view, that she was under the effects of it. There is no other cause, natural or otherwise, to which I could refer death, if that followed. It could not be apoplexy. Apoplexy rarely, if ever, produces death so quickly. In general, even in the severest cases, the attack lasts for a day, and very rarely, indeed, has it occurred before the lapse of several hours. This opinion would be confirmed if the patient were a young healthy woman of twenty-seven; for rarely does apoplexy attack one so young. The condition of the eyes, the state of the pulse, and the state of breathing, exclude apoplexy as the cause of this death. The dilated pupil occurs in the latter stage of apoplexy. In apoplexy, convulsions may or may not occur. The symptoms are not consistent with epilepsy. It rarely, if ever, comes on without previous ill health. I have had a good deal of experience of cases of epilepsy, in connexion with

Paisley Poorhouse, and I never once met with a case in which death came on so quickly. Death on the first attack of epilepsy is very rare. The symptoms of epilepsy, too, are quite different from those of this case.

By the COURT.—Severe mental study or anxiety might produce a diseased state such as to account for an attack of epilepsy; and the above observations are not inconsistent with such a case as Napoleon's.

Examination continued.—There is nothing very distinctive in the *post mortem* appearances of a person dying from prussic acid. The blood is usually of a darker colour. I cannot say whether the body would be much discoloured, as I have never seen a person die from prussic acid. Agnes Montgomery's face was very dark—the darkest ever I saw. I noticed it as something very remarkable. I have never seen a face so dark. Prussic acid might cause it. Taylor on Poisons is a work of the highest authority.

The ADVOCATE-DEPUTE was proceeding to read some passage from this work to show the opinion of the author, when he was stopped by the Court, who said that it was not a course to be approved of—the reading the opinions of living men, who might since have altered that opinion.

If in addition to the symptoms above described, I found prussic acid in the body, I would ascribe death to prussic acid with no doubt whatever. It was out of the question to make a quantitative analysis of the prussic acid in the body. If there had been a large quantity, it might have been done. But the acid is continually exhaling both before burial, and to some extent even after it. The *odour* of prussic acid somewhat resembles that of bitter almonds. It might be noticed if a person came into the room where she was suffering from the effects of it, particularly if there was a good deal of slaver, or something had come up from the stomach. It affects the upper part of the nostrils and the back of the throat; it has a peculiar tendency to do so. Would be perceived more if diffused in the air than if in a phial. The taste is slightly coolish, acrid and pungent, and very slightly bitter. The pungency continues for some minutes, and there is a peculiar taste which I cannot describe. A sourish bitter taste would be a pretty good expression for a common person to use in describing the taste. Alcohol would bring out the taste as strongly as anything else. If two drachms were introduced into a tumblerful of beer, the taste and flavour would be very much concealed. I made an experiment to prove this. I did not mix up such large quantities, but I mixed them in the same proportions and tasted it. A person might very well drink off a tumblerful of such a mixture without suspecting anything. But he would feel it immediately afterward. I mean independently of the after effects he would experience the pungent acrid taste. Assuming that two drachms of the acid were put into the tumbler, No. 30, and taken by a person in health, it would begin to act immediately. The time of death would vary with the strength of the acid. I have analyzed various portions of acid got from different druggists, and found the strength to vary from two to about four per cent.—none at five per cent. The effects of the same dose would probably vary with the person, the subject of it. If it was a strong person who died within three-quarters of an hour, the first symptom would be insensibility and a fall. She (Agnes) could not have raised herself if she had fallen at first after such a dose.

If a small dose were administered in whisky, the symptoms would be sickness, attempt to retch, perhaps retching; uniformly giddiness. I am not aware of purging being a symptom, but the bowels and bladder are

often acted on. I would not be surprised to hear that the patient had, after sitting for ten minutes, and then gone down stairs, in coming up again been so affected that a bundle she carried had dropped from her arms, and she was obliged to crawl up on her hands and knees as she couldn't keep steady, for locomotion is usually affected. Seeing double would be very apt to be produced. The patient might continue affected for some time. The more immediate effects of the prussic acid would go off very soon, but it might produce derangement of the stomach, and in that way the patient might continue ill for several days. No. 43 is the cap which was taken off the body of deceased when exhumed. On the 5th November I gave Christie the officer a small phial of the acid under two drachms. I never heard of prussic acid being used as a hair-dye. I made some experiments with hair handed to me by Mr. Hunter. The hair he gave me I examined with the naked eye and microscopically. It was not dyed. Nos. 32 and 35 contain portions of the hair in its natural condition. No. 33 contains hair from the head steeped in prussic acid for five minutes, and Nos. 34 and 36, hair from the head and whiskers immersed in prussic acid for twenty-four hours. Not the slightest change was produced, either in colour or appearance, although examined by the naked eye and also microscopically. No. 28 is a small phial marked 'Creosote Poison.' It contained a few drops of creosote. The poisoning of Agnes Montgomery could not be by this. No. 29 is a small bottle with the remains of some vegetable oil; perfectly harmless.

Cross-examined by MR. MONCRIEFF for the Panel.—In the *post mortem* examination by itself there were no indications of death from prussic acid. The swelling arose from decomposition. If told that the person so dead was much swollen before death, I should not say so. It must have arisen from some diseased cause. The swelling is not necessarily from prussic acid. I could not consider it to have any connexion with prussic acid. The lungs were not crepitant. I attribute that to decomposition. Decomposition of the lungs is rarely if ever so far advanced, so soon after death. I considered it very remarkable. The stomach usually differs in smell from the rest of the body. That depends upon, and is caused by its contents. There is a disease called serous apoplexy, but it is the result of chronic disease. It arises from previous congestion of the brain, and that must have shewn itself on the *post mortem* examination. There may be death from apoplexy without leaving any traces in the body. But the cases are very rare indeed. Congestion of the brain is very frequently present in poisoning by prussic acid. It is common, but usually *venous* congestion. Some of the *post mortem* appearances are consistent with other causes of death than prussic acid—as for instance, carbonic acid. But the whole of them are not. I would not expect all these appearances to be present, and death to result from some unexplained natural cause. Sudden death frequently happens to young women and others. Suppose the case of a young woman, twenty-seven years old, of a cheerful, pleasant disposition, taken suddenly ill, and when seen in half an hour presenting the following symptoms—apparently perfect unconsciousness,—eyes open, fixed, and staring; pupils considerably dilated; the eye not particularly glistening; staring straight forward; breathing with considerable difficulty, rather slowly; occasional deep respirations; no convulsive respiration; great heaving of the chest at times, and the pulse very weak, between 70 and 80; regular; and her skin moderately natural, neither very hot nor particularly cold, what cause would you ascribe death to?—I could not say, until after at least a *post mortem* examination, what might be the cause

of her death. With these symptoms as the precursors of death, and the *post mortem* appearances detailed in your report, what would your opinion as to the cause of death be?—I would come to no absolute opinion without further examination. In a two-drachm phial of the strength we tested, there would be nearly $4\frac{1}{2}$ grs. of the pure prussic acid. If 5 grs. were given to a young woman, I would expect the symptoms to appear immediately. Death might be in a few minutes, or protracted for some time, but not to an hour. The majority have died within forty-five minutes. But there are a few cases which have survived to within the hour. The smallest dose recorded which has proved fatal, is 7-10ths of a grain. That was the case of the seven Paris epileptics. But these are doubtful cases, as the syrup was never analyzed, and there is no very accurate report of the cases. In the longest-lived case, the patient survived forty-five minutes. If the patient survives forty minutes, he generally recovers under proper treatment. I cannot at this moment state a case in which death resulted after forty-five minutes. In small quantity, the silver test is the most objectionable. The sulphur test is the most delicate, it will detect the smallest quantity—it has detected something very small. The sulphur test is liable to some fallacy, but not when properly managed; and the iron test is the most conclusive. Prussic acid is not liable to be generated in the apparatus, although it is so stated by Orfila and others, but it is an unfounded speculation. Prussic acid is not found a very long time after death. The longest time after death in which prussic acid was found, was in a case stated by Mr. Nunneley, where it was twenty-three days, and there is a case in a French work equally great. The time in the present case is unusually long. I discovered the acid contrary to my expectation. My finding it after so long a time, does not show that the dose must have been very large, for it has been discovered even with a medium dose, after a long time. Orfila was of opinion that it might arise in the dead body from decomposition. He changed his opinions very frequently, and he never produced a single fact in support of that opinion. Dr. Christison does not hold that opinion. In some measure, all the elements of prussic acid occur in the dead body, but they never come into combination. In decomposition, there is a tendency in chemical substances to free themselves and combine into other substances. Cyanogen exists in the sulphocyanate of potassium in the saliva.

Re-examined.—The symptoms in the case last put want the glistening eye, and there is the pulse between 70 and 80. This makes it stronger against prussic acid. But I never saw a case in which the pulse remained so high down to death. It may be said to be impossible. I have not a shadow of doubt that prussic acid was present in the body. After burial, there is but little volatilization, and from the state of the earth in the present case, there could have been very little. There could have been no evaporation after the body was taken up. The stomach and other parts of the body were dissected in five minutes and put into bottles, and the corks put in two minutes after. The tests employed by us are the most approved. I have examined stomachs in every stage of decomposition, from two or three days after death to above three months, and since Tawell's case, where the possible generation of prussic acid was forcibly urged, I have constantly applied some of the tests for prussic acid, and in no single instance have I discovered any trace of prussic acid as the product of decomposition.

By the Court.—I would say the swelling might arise from the poison. I should think it very likely to ensue. But it is not regarded as a usual

symptom. The prussic acid found in the stomach must have come from what was swallowed before death.

66. *Walter Boyd M'Kinlay, Doctor of Medicine in Paisley.*—I prepared a variety of reports along with my father. Shewn Nos. 1-6 of the Inventory; these are they, they are true reports. No. 12 is an Inventory of the things sent by us to the Crown-Agent. The modifying odour mentioned in the first report, appeared to me to be a faint odour of prussic acid. I thought so at the time, and said so. I am satisfied that prussic acid was found in the body. No doubt of it. The suddenness of the attack is symptomatic of poisoning; so is its occurrence in the midst of health. The continuance of the insensibility down till death is a symptom of poisoning by prussic acid. From the whole facts, I have no doubt that deceased died from prussic acid. I have turned my attention to poisoning, and particularly to prussic acid; and I was once nearly poisoned by it myself—in the summer of 1848, in the laboratory of Glasgow University. I was making prussic acid, and some escaped. I felt faintish; pain in forehead and eyes; skin appeared as if it would burst. I fell back powerless; not altogether insensible. Remedies were applied in a few minutes; ammonia and cold water about the face and head. I felt unwell all day, flushed in the face. I made experiments on the hair sent to me, but the prussic acid produced no effect. I never heard of prussic acid being used as a hair-dye, and the hair sent was not dyed. I do not recollect if we were told before *post mortem* examination, that prussic acid was suspected.

67. *Andrew Douglas Maclagan, Physician, Edinburgh.*—I have paid great attention to chemical analysis, especially in legal cases. On the 8th October I got a tin box from Hunter—the soldering was complete. It contained six bottles, Nos. 19-24. The seals were entire. I was to try for prussic acid.

(Witness was then shewn the Report, No. 7 of Inventory, and read as follows:—)

Edinburgh, 10th October 1857.—On 8th instant, I received from the hands of Mr. Robert Hunter, Superintendent of Police, Paisley, a hermetically sealed tin box, containing articles for analysis in reference to the death of Agnes Montgomery. In this box I found six bottles all duly secured and sealed, and labelled in correspondence with an inventory which accompanied them. The information which I received pointed to prussic acid as the suspected cause of death, and my experiments were directed towards it alone. Bottle, No. 1, was labelled as containing one half of the stomach. There was no odour of prussic acid or any other drug perceived on opening the bottle, the smell being merely that of sour semi-putrescent animal matter. Previous to removing the contents from the bottle, an attempt was made to detect the presence of prussic acid in the state of vapour. For this purpose, two experiments were made; *1st*, A watch-glass, moistened on its concave surface, with a drop of solution of nitrate of silver, was inverted over the mouth of the bottle. The nitrate of silver acquired a very faint, grey film, which dissolved in nitric acid by the aid of heat. This was probably cyanide of silver, generated by the vapour of hydrocyanic (*i. e.*, prussic) acid, but the somewhat putrescent stomach having evolved some sulphuretted hydrogen, the action of the test was obscured, and rendered doubtful; *2dly*, I employed what is known as the sulphur test. In performing this, there is inverted over the mouth of the bottle a watch-glass, moistened with a drop of hydro-sulphuret of ammonia. After exposure to the vapour, it is gently evaporated to dryness, and the residue touched with a minute drop of a solution of a persalt of iron, which, if

prussic acid vapour has been present, ought to give a blood-red colour. I procured a faint but distinct tinge of red, which, however, was fugaceous, and not very characteristic,—a result which I attribute to the solution of chloride of iron which I used, containing an excess of acid. The results which I got, however, were such as to lead me to believe that there was present a minute quantity of prussic acid. I resolved therefore to operate on the whole contents of the bottle. The substance contained in the bottle was now removed, and was found to be a portion of a stomach, apparently the larger part of one wall of this viscus, but so cut as to render it impossible to say which part it was. It presented no appearance of inflammation or other morbid action. There were no fluid contents; all that could be got from it, being a few particles embedded in semiputrid mucus, which, on microscopical examination, exhibited nothing but some fragments of fibres of flesh, some grains of sand, and broken down scales from the mucous membrane. The stomach thus being quite dry, was covered with cold water, macerated in it for twenty-four hours, cut in pieces, and the whole introduced into a small retort; a few drops of diluted sulphuric acid being added, as it was in an alkaline condition. It was gently distilled in the water bath, and about half a drachm of fluid drawn off. To this I applied the three best tests for prussic acid. That known as the iron test, the least delicate of all, the object of which is to develop prussian blue, failed entirely. The silver test was next applied. There was a minute white precipitate formed, on adding the nitrate of silver, which appeared partly to dissolve in warm nitric acid. It did not, however, dissolve entirely. This showed that a little hydrochloric acid had passed over during the distillation; and, as it was impossible, from the minuteness of the quantities operated on, positively to affirm that part of it had redissolved in nitric acid (which would have proved the presence of prussic acid), the results thus obtained must be held as being uncertain. I next applied the sulphur test as already described. The preparation of iron, which I now used, was a solution of persulphate which gave quite characteristically, though feebly, the red colouration, and this was at once destroyed by adding to it a drop of solution of bi-chloride of mercury. The result of this experiment, therefore, is to lead to the conclusion that the distilled fluid which I had obtained from the stomach, contained an exceedingly minute trace of prussic acid. Bottle, No. 2, contained a small bit of liver, weighing 350 grains. Along with it there was somewhat less than a drachm of blood. I examined this blood, subjecting it to the sulphur test, as being the more delicate. I obtained a feeble red colouration, which was destroyed by the chloride of mercury. It was extremely faint, but quite discernible. The silver test failed when applied to the blood. The iron test was not attempted. The result of my experiments therefore is, that there is evidence of the presence, in the stomach of Agnes Montgomery, of an exceedingly minute trace of prussic acid, but that this was found only by the sulphur test, and that the other less delicate confirmatory tests gave no reliable results. That there was also a trace of the poison in the blood from the liver, but that the experiment showing this was too unsatisfactory to be depended upon alone. It is in no respect surprising to me that I did not obtain better results, even had I been assured otherwise that Agnes Montgomery must have swallowed prussic acid; for, besides the well-known difficulty of finding this very volatile poison in bodies dead for some time, I must observe that I have seldom in the course of my experience met with articles less fitted for medico-legal pur-

poses than those which I have had to operate on. The other articles being still more unpromising, I did not think it necessary to open them.

(Signed) 'ANDREW DOUGLAS MACLAGAN.'

The articles were too dry. I was not aware that there had been a prior examination. I was requested to examine the other articles.

Witness was then shown the Report, No. 8 of Inventory, and read as follows:—

'*Edinburgh, 10th November 1857.*—In compliance with instructions from the Crown-Agent, I made a chemical examination of those portions of the body of Agnes Montgomery not analyzed by me previous to my former report of 10th October. No. 3 contained one-half of the heart, which, when removed from the bottle was found to have about a teaspoonful and a half of bloody serum accompanying it. There was no odour of prussic acid. The silver and sulphur tests both failed to give any indications of the vapour of prussic acid. No. 4 contained one-half of the spleen. From this about two teaspoonfuls of blood had exuded into the bottle. There was no smell of prussic acid. The sulphur test applied to the spleen and blood to detect the vapour, gave with persulphate of iron a very distinct red tinge, which was entirely destroyed by a drop of solution of corrosive sublimate. I thus obtained unequivocal proof of the presence of prussic acid in the spleen. The silver test was next applied, and a very faint film was formed after long exposure; but it was so faint that the farther process of determining its solubility in nitric acid could not be satisfactorily applied. No. 5 contained the half of one kidney, along with which there was less than a teaspoonful of bloody fluid. The sulphur test here gave a very faint trace of red, but not distinct enough to be relied on. The silver test failed entirely. No. 6 contained about one and a half inches of the duodenum, about ten inches of the small, and four inches of the large intestine, in which there was a considerable quantity of solid and semi-solid fæces. These viscera presented no morbid appearances. The sulphur test was applied, but no trace of the characteristic reaction was obtained, and the silver test was found to be inapplicable, as the silver was blackened by sulphuretted hydrogen evolved by the feculent matters. It being obviously useless after these results to apply the process of distillation to each of these articles separately, I united in one apparatus the residues of the whole organs except the stomach, which had already been subjected to distillation, and after acidulating with tartaric acid, I carefully distilled. It is needless to detail this experiment, farther than to say that I did not thereby succeed in getting any farther evidence of the presence of prussic acid in the body of Agnes Montgomery. The result of the above experiments therefore is, that I could not establish the presence of prussic acid in the heart, kidney, or intestines, but that it was unequivocally proved to be present in the spleen; the latter result doubtless being due to the fact that this organ contained more blood than any of the others on which I operated. On the 15th of October there was delivered to me, by A. C. Christie, criminal-officer, Paisley, a one-ounce phial, duly sealed and labelled, "H. Hart, druggist, 18, Argyle Street, west corner of Virginia Street, Glasgow, prussic acid—poison." This was found to contain medicinal prussic acid; and I examined it with a view to determine its strength. The mean of two trials gave as result that 100 grains contained rather more than two and a half (2.58) grains of absolute or anhydrous prussic acid. It was therefore prussic acid of good strength,

being only a trifle weaker than that of the Edinburgh Pharmacopœia, which is the strongest authorized by the Pharmacopœias of the United Kingdom. On 21st October, Mr. Hunter, superintendent of Renfrewshire Police, delivered to me a quart bottle, duly sealed and labelled, "Eaglesham, 4th October 1857." This I found to contain nine and a half ounces of ale, which had become sour. It had no peculiar taste, except that of acidity, and there was no smell of prussic acid or other drug. I examined it for prussic acid, both by the tests for the vapour and by distillation, but I could not detect the least trace of this poison.

(Signed) 'ANDREW DOUGLAS MACLAGAN.'

'*Edinburgh, 10th November 1857.*—On 23d October I got from Mr. George Gray, of the Sheriff's Office, Glasgow, a pint bottle, duly sealed, and labelled, "Glasgow, 89, John Street, 1st October 1857;" also a small phial, duly sealed, and labelled, "Paisley, 17th October." The pint bottle contained three and a half ounces of a slightly yellow clear fluid, with the smell of whisky, but also smelling very strongly of prussic acid. It was inflammable, and had a specific gravity of .947. It was evidently diluted whisky, mixed with prussic acid, this poison being found in it very readily by all the ordinary tests. The quantity of prussic acid present was determined in the usual way, by precipitating it with nitrate of silver, due deduction being made of a trace of chloride, yielded by the water mixed with the whisky. The mean of two experiments gave, in half an ounce of the fluid, a quarter of a grain of absolute prussic acid, a quantity corresponding to about twelve drops of the prussic acid, from Hart, the druggist in Glasgow, referred to in my other Report, of this date. It is hardly necessary to say that such a fluid is highly poisonous. A fluid ounce (*i.e.* two tablespoonfuls) being equal to half a grain of anhydrous acid, would be a dangerous dose, and seeing that less than one grain of anhydrous acid has proved fatal, a wineglassful (equal to two fluid ounces) most certainly might be a fatal dose. The small phial, labelled "Paisley, 17th October," contained about a teaspoonful of fluid, having the same odour of whisky and prussic acid as the contents of the pint bottle. Prussic acid was found in it by all the ordinary tests.

(Signed) 'ANDREW DOUGLAS MACLAGAN.'

Examination resumed.—Shewn Mrs. Mason's wine-glass, No. 46. That is a two-ounce glass. Such a glass of that whisky might produce death. Prussic acid was unequivocally demonstrated in the spleen, beyond a doubt. If Agnes Montgomery were in good health at five, and when seen immediately after, was found in a state of insensibility, her head leaning on a table, deep moans escaping from her, her eyes staring, fixed straight forward, pupils dilated, her face swelled like to burst, her hand clenched, the jaws locked, nothing remarkable about the pulse but weakness, a thick slaver coming from her mouth, what would you infer?—I would say, that with these symptoms, you have a typical case of poisoning by prussic acid. Add to these, that in the *post mortem* examination, there was nothing found structurally wrong, and what is your conclusion?—The conclusion is obvious, that she was poisoned by prussic acid. Smell is the least reliable proof, but it would confirm me in my opinion. I do not believe the prussic acid found in the body, could be the product of decomposition. I will not say it is absolutely impossible, but it is as far removed as can well be from probability. It has never been found as a

product of decomposition. If it were a usual result, I should certainly have met with it. It would occur very often. Twenty-three days is the longest time after death in which prussic acid has been reported to have been found; and there is a very instructive case quoted by Wharton and Stillé, as reported in the '*Chemist*;' a well-marked case of twenty-one days, where the prussic acid was not only detected, but determined quantitatively. The quantity could not be determined in the present case.

Cross-examined by Mr. MONCRIEFF for the Panel.—I have not tried how small a quantity the sulphur test will detect. It has detected the four-thousandth of a grain. I have said there was only a minute quantity present here. I have examined a great number of putrid stomachs in all stages of decomposition, and have applied the tests for prussic acid, without finding it. I do not say it is impossible that it could be produced by decomposition. Impossible is a big word, and I won't say that anything is impossible in organic chemistry. It is possible to conceive of such a thing, for the elements are there. It is easy to conceive anything. Such an opinion was held by Orfila, but in a doubtful sort of way, not very decidedly, and without any grounds.

(Witness was then shewn *Orfila*, iii. p. 693, *et seq.*, and translated it as follows:—

'*Medico-legal questions relative to poisoning by hydrocyanic acid.*—May one, from the single fact that he has proved the presence of hydrocyanic acid in the matters vomited or in those taken from the body, or in its organs, certainly affirm that there has been poisoning by this acid?—I do not hesitate to reply in the negative; indeed it is not unexampled that hydrocyanic acid has been found in the human body, healthy or diseased: and it is not impossible that it may be generated during a medico-legal investigation under the influence of certain agents. On the other hand, it is not demonstrated that this acid may not be generated in proportion as bodies putrify. Lastly, with this, as with all the other poisons, hydrocyanic acid may have been introduced after death into the alimentary canal of individuals who have died from other diseases than poisoning.

'It is not unexampled that hydrocyanic acid has been found in the human body, healthy or diseased.

'It is well known that with certain individuals the sweat, especially that of the arm-pits and genital organs, exhales a marked odour of hydrocyanic acid. This acid has been found in the urine of dropsical subjects, and in the liquid taken from their abdomen, from a puncture made in it.—(*Brugnatelli and Goldefy Dorhs.*) Tiedemann and Gmelin have proved the existence of sulphocyanate of potassium in the saliva of two individuals, of whom one was not a smoker. Treviranus had previously met with this salt in an analogous case.—(*Journal de Chim. Méd.* 1838.)

'It is not impossible that it may be generated during a medico-legal analysis, under the influence of certain agents. For the production of hydrocyanic acid, there is only needed hydrogen, carbon, and nitrogen; is it then surprising that we should form this acid when we treat certain organic nitrogenous substances either with heat or with nitric acid? Do concentrated alkalis not pass into the state of cyanurets when they are heated at a proper temperature with nitrogenous substances? That being the case, what more simple than to conceive also the possibility, in certain diseased states, of the formation, in some sort spontaneous, of hydro-

cyanic acid? Why should it not also be, when we see sugar formed in diabetes, and cystic and xanthic oxides, organic matters which do not exist in the animal economy in its normal state, produced in the kidneys in cases of urinary calculus?

'It is not demonstrated that hydrocyanic acid may not be one of the products of decomposition. No one would dare to affirm, as matter of fact, that hydrocyanic acid is never produced during the putrefaction of bodies in the air, in the earth, in the dunghill, in water, or in privies. Chemistry is far from having said its last word on this point, and why not admit, on the contrary, that it is more than probable that there is production of this acid in some of the decompositions I have specified, if not at all the epochs of the decomposition of animal matters, at least in some of them? So long as it remains doubtful, and until experience has pronounced upon it, it is a thousand times preferable to adopt the proposition above enounced, than to reject it.'

Cross-examination resumed.—Orfila was an eminent chemist, but he has very often been found wrong.

By the COURT.—The liver has a normal action of forming sugar, and in diabetes the sugar is formed in excess.

By MR. MONCRIEFF.—May prussic acid be formed from the heating of animal matter?—From any animal matter, at a red heat in an iron pot, and in contact with an alkali, we can form prussiate of potash which contains the elements of prussic acid and yields it. The result of the sulphur test alone is quite satisfactory and reliable. Nothing used by me would affect the test. Nothing would produce the reaction obtained but prussic acid. The smallness of the results I attribute to the small amount of substances, and the small quantity of blood. If one-half of the spleen was examined a month before, and no prussic acid found, and you examine the other half a month after and find it, whether would you believe in the failure of the first experiment, or in the spontaneous generation of the acid between the two experiments?—I would rather ascribe it to the failure of the first experiment. All the elements of prussic acid exist in all parts of the body. In the case above described, I would not expect great swelling of the chest during life. Swelling of the chest might be due to many causes, for instance emphysema, but I could not give any opinion unless it was properly described. It has never been mentioned as a symptom of poisoning by prussic acid, but it might co-exist with it.

Re-examined.—Two chemists might come to a different result in determining the strength of prussic acid; of course, if there was a great difference between them, one or other must be in error. Exposure to light and insufficient preservation would affect a solution of prussic acid. Swelling is not inconsistent with poisoning by prussic acid. The swelling might easily occur in the foot, particularly if pendant. The fact of the stays bursting, when the lace was cut, is easily accounted for by the convulsive breathing.

The Court adjourned about six o'clock, under an Interlocutor similar to that pronounced at the close of the first day's proceedings.

THIRD DAY.

THURSDAY, DECEMBER 24.

The Court met at Nine o'clock.

68. *Frederick Penny, Professor of Chemistry in the Andersonian University.*—I have attended much to cases of poisoning. The effects of prussic acid are rapid insensibility, loss of muscular power, frequently convulsions, foaming at the mouth, clenching of the teeth, clenching of the hands, clammy skin; fixed, staring, glistening eyes; pupils dilated. These are the leading symptoms, but they would be liable to be modified if death was protracted for three quarters of an hour. We might have no convulsions and no clammy skin. The convulsions would be slighter, the more complete the loss of muscular power. Such occurring in a healthy person, well to the last, would exclude the notion of apoplexy or epilepsy. They correspond to poisoning by prussic acid rather than to these diseases. Apoplexy is not common in healthy young persons. The proper tests for prussic acid are three in number—the iron, silver, and sulphur tests. The best form of the sulphur test is in the form of vapour, and reaction by a salt of iron. Is it conclusive of the presence of prussic acid?—I know no substance which would produce a similar result but prussic acid. If I obtained that result in a case with those symptoms, and with this test, I would hold unequivocally prussic acid to be present. I am inevitably shut up to that result. In a case of life and death, I should certainly desire to have it confirmed by the other tests, but as a matter of chemical analysis I am perfectly satisfied by it alone. If the other tests gave the same results, that would strengthen the conclusion. I am aware that Orfila thought that prussic acid might be produced after death by decomposition, but I do not concur in that view. Orfila refers to experiments which are failures, and special experiments have been made by Herapath, Bonjean, and others, to decide the point, and the results, without exception, have been negative. Moreover, we should be frequently meeting with prussic acid in our analyses of animal substances after death, if this speculation had any foundation. It was an assumption on the part of Orfila, and I am satisfied it is wrong. A quantitative analysis is much more delicate and difficult than a qualitative analysis. It is more difficult to determine the amount than the actual presence of a substance. A person may detect the presence of prussic acid without the quantity being ascertained. I can conceive of a person well qualified to detect the presence of prussic acid, but who may not be able to estimate accurately its quantity; the latter problem requiring almost daily practice in such matters.

Cross-examined by Mr. MONCRIEFF for the Panel.—Excluding any evidence but the chemical, would you be satisfied with the presence of prussic acid, if found only by the sulphur test?—I would. According to the mode in which that test was applied in this case, I see no other conclusion;

and one analyst applied all the tests and obtained correct results. I have seen the reports. Taking Dr. Maclagan's report alone, and excluding the results in the other, would you be satisfied by that report alone of the presence of prussic acid?—As I am not acquainted with any other substance which could produce the same results, and as the mode of applying the test was the right one, I am driven to the conclusion, that prussic acid was present. Did you observe that the other tests failed, and what inference do you draw from that?—That the quantity of prussic acid may have been too small for the action of these tests. In reading the two reports, have you observed inconsistencies?—I have. Referring to the reports relative to the examination of parts of the body, I observe one analyst is successful with all the tests, the other fails with two—the iron and silver. One analyst detects it in the half of the spleen, the other does not. In the analysis of the solution there is a discrepancy—I mean a difference as to the quantitative results. The report of 21st October gives a fraction short of 4 per cent. of pure acid, the other gives only $2\frac{1}{2}$ (2·58) per cent. It is a remarkable difference as to the same sample. I would account for that—that one or other must be wrong. Both may be wrong, as I do not know the mode of analysis followed. If the one is right, the other is very incorrect. There is some still in both phials. The results of the experiments, in regard to the production of prussic acid by decomposition, are entirely negative. Orfila may be regarded as our highest authority in toxicology, but he has made great blunders. He was one of the earliest of chemists in that line. He states no affirmative experiments in support of his theory. He mentions one which failed. Is it possible to predicate with accuracy as to the products of decomposition?—No. Otherwise experiments would not be required. Looking to all experiments, are there no results from decomposition which no chemist would expect?—There are. Why?—The elementary ingredients of the body arrange themselves in a variety of ways. Are the elements of prussic acid present in the body?—All the elementary ingredients of the whole animal and vegetable worlds are present in the human body. The amount of alcohol in strong whisky should be 50 per cent. A burning sensation in the stomach is not a symptom hitherto mentioned of a less than fatal dose of prussic acid. But it is impossible to say, as such a dose is not often taken, and if the dose were very large it would cause such a sensation.

Re-examined.—The taste of prussic acid is pungent, burning, and bitter. It affects the back of the mouth; there is a peculiar feeling of acridity at the back of the mouth. If a person were dying from prussic acid, and there was a good deal of slaver, I should expect a person coming into the room to be so affected, and also in the nostrils, and to experience a peculiar odour without being able to define it. I have seen people often affected by the smell—workmen in making it. I have seen it making. It is made from yellow prussiate of potash, oil of vitriol, and water heated in a glass vessel in a sandbath. The vapour of the acid and water are collected in a receiver. Water is added to bring over the vapour. The discrepancies of the reports in the analysis of parts of the body I cannot explain. I do not see that the difference in the parts of the spleen, and there being more blood in the one half, accounts for it. Prussic acid would be in both parts. It may have escaped one analyst, particularly if satisfied of its presence in the stomach, and so not so careful in the analysis of the spleen.

To MR. MONCRIEFF.—I think the effect of the smell would be strongest when close to a phial of the acid.

To the COURT.—A great many different speculations have been started in medico-legal questions as to the presence of different poisons in the body; but all have failed, such as arsenic in the bones, affirmed by Orfila. Orfila refers to sugar in diabetes. It has no analogy whatever. Sugar exists in the normal state of the body, and is necessary to it. In diabetes there is excessive secretion of sugar from disease. There is no new substance formed by the elementary substances coming into new combinations. The occurrence of cystic and xanthic oxides in the living body has no analogy either. In 1848, it was not known that sugar formed a normal constituent of the body. It was the subject of discussion for several years, but has been finally settled in the affirmative by French chemists—M. Bernard and others. Smell is a very fallacious test when applied to exhalations from the animal body. Others have applied tests to the perspiration, and failed to detect prussic acid. Being a man of large experience, Orfila had great confidence in his own powers.

The Advocate-Depute then intimated that this closed the case for the Crown.

There was no evidence led on the part of the panel.

The ADVOCATE-DEPUTE (Mr. Maitland Heriot) then proceeded to address the Jury as follows:—

It is now my painful duty, Gentlemen, to direct your attention to the evidence that has been laid before you. I reckon myself peculiarly unfortunate, that, during this my first Western Circuit, I should have had, in addition to all the other business, the charge of getting up and preparing so painful, so anxious, and so responsible a case as the present; but I must say my task has been all the easier, from the very efficient way in which the Procurators-Fiscal have done their part of the work.

On referring to your indictments, you will observe that there are three charges against the panel,—one of the murder of Agnes Montgomery at Eaglesham, and two of administering prussic acid to Archibald Mason and his wife in Glasgow. I propose to address myself to the charge of Murder, or the Eaglesham case, in the first place, and then to take up together the two charges of administering poison in Glasgow.

The first question that naturally arises in the Eaglesham case is this, *Did Agnes Montgomery die of poison?*

You have on this subject to take into view the *symptoms* exhibited by her before she died. When you remember the symptoms of poisoning by prussic acid, just now described by Professor Penny,—the rapid insensibility,—the loss of muscular power,—the foaming at the mouth,—the clenching of the teeth,—the clenching of the hands,—the cold skin,—the fixed, staring, glistening eyes,—the attempting to vomit, and inability to do so,—the moaning and heavy

sighs, you would almost fancy he was looking on Agnes Montgomery as she lay dying surrounded by her friends. Then when you take into view the symptoms as described by these friends, and remember that they knew nothing of the effects of poisoning by prussic acid, you see how the symptoms, as described by them and by Professor Penny and the other Doctors, correspond in every particular. Looking to these you must be satisfied that Agnes Montgomery died exhibiting the symptoms of poisoning by prussic acid. One or two of them, no doubt, as described by Professor Penny, were wanting, or were to a certain extent modified, such as the convulsions and the clammy skin. These, he told you, might or might not exist, and would depend to some extent on the quantity of the poison administered.

In addition to these symptoms, you have another characteristic feature of poisoning by prussic acid, *the length of the illness*. Dr. M'Kinlay told you that forty or forty-five minutes was reckoned the average duration of the illness in cases of such poisoning; and here you find that Agnes Montgomery died within the hour, and, as nearly as we can ascertain, somewhere between thirty-five and fifty minutes after she fell down.

Then you have *the suddenness of the attack*—another characteristic feature in cases of poisoning. Agnes had been in perfect health. She, as her sister told you, had not been ill for years, and in a moment you see her struck down; accordingly, you find that her sister, Mrs. Watson, on going into the room, at once asks her, 'Aggie, have you been taking anything?' She at the time attributes the suddenness of the attack to poison, and it is for you to say how far she was wrong.

The next circumstance to which I would direct your attention, is the fact that *there are no morbid appearances found, on opening the body, to account for death*. The doctors who made the *post mortem* examination tell you the death was not the result of either 'external violence, protracted disease, or structural change in any of the important organs.' They tell you further, they could find no natural cause whatever to account for death.

And here I may notice the only two theories set up on the other side to account for death, and these were apoplexy and epilepsy. But you will remember how apoplexy was excluded by the medical men examined. Apoplexy attacks the aged. Agnes was only 27. If death had resulted from apoplexy, there would have existed an effusion of blood in the brain. Here the brain, although somewhat decomposed, was perfectly white, and showed no trace of blood whatever. A person who dies of apoplexy is generally ill for some time, some days at least, and is scarcely ever known to die in less than a day. Here Agnes Montgomery died in less than an hour. Then as to epilepsy: It is invariably preceded by previous ill health. Agnes Montgomery had no previous ill health. The eyes in epilepsy are in motion; hers were staring and motionless. Epilepsy is seldom if ever fatal at a first attack. She most certainly had had no pre-

vious attack. Thus, Gentlemen, you will perceive that the notion that death resulted from either apoplexy or epilepsy is excluded.

Then, in the next place, you have the evidence as to *the odour of prussic acid*. Mrs. M'Donald told you on going into the room she perceived a peculiar smell 'blowing' off Agnes Montgomery, and that this had a remarkable effect on her. She experienced a curious feeling at the back of her throat and in her nostrils. Then, when on the 5th November, the police afterwards spilt some prussic acid mixed with beer on the floor, and thus caused it to be diffused through the air, she then again perceived this very same smell, and again she found the back of her throat and her nostrils affected in precisely the same way,—thus proving that the smell she felt 'blowing off' Agnes Montgomery was prussic acid. In addition to this, you have the evidence of the two Drs. M'Kinlay, and of Dr. Scott, who, after tying up the stomach, and allowing the odour therefrom to escape by a small hole, all perceive an odour modifying the odour of decomposition; on being asked what that odour was, Dr. Walter M'Kinlay said it was that of prussic acid, and Dr. Daniel M'Kinlay described it as like that of bitter almonds, which is very generally mentioned as being identical with the smell of prussic acid.

We come next to the evidence derived from the *chemical analysis*, and here I may remark that even had no prussic acid in the circumstances been found, I believe I might have been justified, after all the other evidence that has been laid before you, in still asking you for a verdict against the panel. It would not have been surprising had nothing whatever been found. Prussic acid is so very volatile that it soon escapes, and after a short time it is not, generally, to be found. But here, owing probably to the dryness of the soil in which the body was interred, we have very important and decisive evidence on this point—

The body, which was buried on the 17th September, was exhumed on the 30th September, and two different sets of experiments are made,—one at Paisley by the two Drs. M'Kinlay, and the other at Edinburgh by Dr. Douglas Maclagan. There seems to be a peculiar value in the double experiment, and in the double finding of prussic acid, as was the result of both sets of experiments. It seems to me to exclude any possible mistake as to the mode of performing the experiments, or any allegation as to the possibility of any impurity or insufficiency in the apparatus or substances used in making the experiments.

Then what is the result of these experiments?—(The Advocate-Depute then read and commented on the reports of the chemical analysis.)

Prussic acid was found on the stomach by the two Drs. M'Kinlay by all the three tests—the iron test, the silver test, and the sulphur test. They are of opinion 'that hydrocyanic acid, commonly called prussic acid, was present in the substance of the stomach.' It was also found in the stomach by Dr. Maclagan.

Then prussic acid is found in the spleen by Dr. Maclagan: as to

it he says,—‘ I thus obtained unequivocal proof of the presence of prussic acid in the spleen.’ The Drs. M‘Kinlay also found it in the spleen, although not so satisfactorily ; but they explain to you that they had found it so very satisfactorily in the stomach, that they sent off the best piece of the spleen, which means that containing the most blood, to Dr. Maclagan, and did not think it necessary to examine it so minutely as otherwise they would have done.

The result, then, of the whole chemical examination is, that prussic acid is found in the body of Agnes Montgomery by *all three Doctors*.

My learned friend, Mr. Moncrieff, attempted to make something of a theory or speculation put forth by Orfila, that prussic acid might possibly be found in the human body by decomposition after death. But you will now be satisfied that this is a mere theory not founded on fact. It was suggested by Orfila many years ago. Doctors in all parts of the world have had their attention directed to the subject, as Dr. M‘Kinlay told you, and not one instance has ever been discovered by any one doctor, where prussic acid ever was found, except where it was known to have been swallowed during life. The medical men who have been examined, tell you this is a mere speculation of Orfila’s, or, as Professor Penny called it, ‘an assumption,’ unsupported by any evidence whatever.

Taking the whole medical evidence together,—the symptoms exhibited during life—the length of the illness—the suddenness of the attack—the absence of any morbid appearance to account for death—the odour felt by Mrs. M‘Donald, affecting her so peculiarly, and also that perceived by Drs. M‘Kinlay and Scott,—and then, along with all that, the unequivocal evidence of the presence of prussic acid in the body, as proved by the various chemical analyses, I submit, Gentlemen, *it is proved* beyond all reasonable doubt, *that Agnes Montgomery was poisoned with prussic acid*.

From a question that was put in cross-examination, it rather appeared to me that my learned friend, Mr. Moncrieff, was inclined to throw some blame on Dr. Scott, and that even supposing Agnes Montgomery had been poisoned by the panel, that Dr. Scott was to blame to some extent in not discovering the cause of her illness, and in not applying the proper antidote, which, as Dr. Walter M‘Kinlay told you, was ammonia. But, Gentlemen, a party who poisons another, takes the chance of the doctor discovering or not discovering the cause of the illness, and of his having and applying the proper antidote in time. There is one circumstance, however, that closes my learned friend’s mouth on this subject. The panel was present when she ‘turned ill.’ He said so to the police. He knew the cause of her illness. The Doctor did not know. It was the first question he asked when he arrived. Mrs. Watson said to him, ‘You see her as we saw her.’ The panel could have supplied the information wanted. He was in the room then. He put off his coat to get her into bed. A word from him might even then have saved her. But he would not speak the word—and she died.

Having thus established that *Agnes Montgomery was poisoned with prussic acid*, the next question that arises is, *Did she commit suicide, or was she murdered?* I am afraid, Gentlemen, that suicide is quite out of the case. You will remember that she was a person of a cheerful, happy disposition, easy-minded, and not easily put about, and with no depression of spirits, and, therefore, she was not the kind of person who commits suicide. Then we have no motive for suicide, nor threats of suicide. In a case that was lately tried, it was said L'Angelier had a motive for suicide—the girl he loved had rejected him, and was about to marry another. There is nothing of the kind here. Evidence was brought in that case of repeated threats to destroy himself, both in correspondence and verbally to various parties. We have not a single threat here, in any shape whatever. Next, you have it proved that there was a heavy fall or 'thresh' on the floor, and I suppose now there can be no doubt that that fall, heard by her two neighbours, shortly before the panel left the room, was Agnes Montgomery falling down insensible. The doctors tell you if she fell down insensible, she could not raise herself again. How then, Gentlemen, is she found on the chair? If she had committed suicide, she must have been found lying on the floor. She must have been lifted by another and put on the chair.

Then it is in evidence that she was at church twice that day—not a very usual preparation for suicide. She was in good spirits that night. She had gone up to make her tea, and was just going out to take a turn with her friend Janet Dollar. Nor, Gentlemen, is there any evidence of her being in possession of prussic acid, the poison of which she died. There is evidence that the panel was possessed of it, and had got it in suspicious circumstances that very morning. There is no phial found within her reach. In cases of suicide by prussic acid, the phial is almost always found beside the party. Insensibility comes on so rapidly, they have no time to dispose of it. While no phial is found within Agnes Montgomery's reach, there is one found on the walk within reach of the panel. The deceased did not lock herself in, but was locked in by the panel. If the door had been locked on the inside, and the phial had been found in the house, and if no one had seen him leave the house, there might have been some plausibility in this view; but I cannot see how my learned friend, Mr. Moncrieff, can, with all his ability, reconcile the idea of suicide with the fact that the panel locked her in from the outside, and took away the key of the door.

You will remember, besides, that Agnes Montgomery lived alone, and if she had wished to commit suicide, she could have done so during the night, or at any other time while alone. Can you, in these circumstances, suppose she would commit suicide in presence of another? If she did, she must have known, even if she died, that that person would inform the world that she had died by her own hand. But she must also have known that that other would, of course, at once give the alarm, and thus her purpose might be

frustrated. Then you have the prisoner coming up stairs, and putting his ear to the door, and listening there. For what object was this? Is this at all consistent with the notion of her having committed suicide?

But looking at this question of suicide or murder with the light derived from the panel's whole conduct,—taking into account his getting the poison—the secrecy as to his mode of getting it—the falsehoods he tells in his declaration, and to Ferguson about it—the phial found near him—his being present when she was taken ill, and when she fell—his giving no alarm—his locking the door—his coming back, and listening—his hiding the key—his agitation—taking all these facts together, I submit that suicide is out of the question.

Had there been any doubt on the point, there is one piece of evidence that seems to me to be decisive on this question, and puts suicide out of the case—the Masons were not attempting to commit suicide on the 25th. If you are satisfied—and I will come to that part of the case by and by—that the panel administered prussic acid to them on the 25th, is that fact not decisive on the question, whether he gave, or did not give, the same to Agnes Montgomery on the 13th? It is proved beyond all doubt that the panel gave prussic acid to them; and I am afraid there is no room for doubt that he also gave it to her.

Having thus shown, in the first place, that *Agnes Montgomery was poisoned by prussic acid*; and, in the next place, that *she did not commit suicide, but was poisoned by another*; the next question for your consideration is, *Was she poisoned by the prisoner at the bar?* In considering the evidence on this head, I shall adhere, as nearly as I can, to the order in which the events occurred.

To begin with, you have the panel's previous knowledge about prussic acid. James Watson told you, that during Miss Smith's trial, while Mrs. Watson in Eaglesham read the papers about the trial, the panel asked a variety of questions about prussic acid. He asked what kind of stuff it was, and was told it was *that* kind of stuff, that if Miss Smith had got the sixpence-worth she sent for, and had given it to L'Angelier, he would have died in her presence. He asked where it was got, and for what it was used, and was told it was got in the druggist's, and was used for taking likenesses. Then you have the second conversation in John Watson's house in Glasgow. It is there mentioned as a quick and active poison,—to be got at Hart, the druggist's. It was also said it would not have suited Miss Smith's purpose, as she wished L'Angelier to go away from her house and die after some interval. It is also mentioned as a poison not easily discovered in the stomach. The panel heard this said; for whether that is a fact or not is a different question. James Arneil told you the panel was attending to all that was said; and he gave you a very peculiar reason for his knowing the panel was noticing and attending, one which you will remember, I dare say, but which I need not at present specify.

You have the panel, therefore, possessed of a very minute acquaintance with prussic acid—he knows that sixpence-worth will kill—he knows it is to be got at the druggist's, and at Hart's in particular—he knows it is used by photographers—he knows that it would be a suitable poison for one who desired to kill another instantly, and in presence of the administrator—he knows, or hears it said, that it is not easily discovered in the stomach.

Keeping all this in view, see, in the next place, how he put his knowledge into practice. He says in his declaration he never employed Ferguson to get prussic acid, and doesn't know what it is. Is this true, Gentlemen?

You have him then sending for prussic acid; for a 'sixpence-worth,' the very quantity that had been mentioned; and he tells his messenger to say, if questioned about it, that it is for a photographer. Ferguson, the carrier boy, tells you that on Saturday the 12th September, the panel told him he wished him to bring something for him from Glasgow; that the panel asked Mrs. Watson for pen and ink, and wrote something on the board where he worked. The panel went to the door, and told him it would cost sixpence, and to give it to no one but himself, and not to tell what he fetched. Ferguson could not read writing, but he showed the line to Gall, the van-driver. He then took it to Stirling, the shopman at Hart's the druggist, in Virginia Street. He was asked for what it was wanted, and said, as directed by the panel, it was for taking likenesses. He then got it from Stirling, and took it, wrapped up in paper and sealed as he got it, to Eaglesham, and next morning, being Sunday, the 13th September, the very day Agnes Montgomery died, the panel came to him and got it from him, telling him again not to tell anybody what he had brought to him.

Then Ferguson gets another line from the panel on the 23d September, in similar terms, asking for prussic acid, which he gets from Young, another shopman in Hart's, and it he hands to the panel on the morning of the 24th.

You have Ferguson's evidence confirmed, if that be necessary, by Mrs. Watson, who tells you that the panel did get pen and ink from her to write an order, which at the time she understood was for something that Ferguson was to get for the panel in Glasgow. You have it next confirmed by the van-driver, Gall, who read the line; by Stirling, the shopman at Hart's, who read the line and gave the prussic acid to Ferguson, for a John Thomson, by whom the order was signed, and he tells you the precise contents of the line—'Mr. Hart, Please give the bearer sixpence-worth of prussic acid, and oblige, JOHN THOMSON.' And you have Ferguson's evidence, likewise, as to the second purchase of the prussic acid confirmed by Young, the other shopman, as well as by Stirling, and by the boy William Cameron, who saw him give something to the panel next morning, as described by Ferguson. And to strengthen and prove this part of the case beyond all doubt, you have it proved by William Montgomery, a prisoner, that he saw the panel write a letter to the

Procurator-Fiscal of Paisley, (making a charge against a party, as to which I don't trouble you.) That letter is handed by the panel to the warder, William Montgomery,—is examined by the clerk of the prison, Cauvine Alston,—and is received in the Procurator-Fiscal's office at Paisley. That letter, written in a very peculiar hand, is shown to Gall, to Stirling, and to Young, and they all three tell you that it is in the same handwriting as the orders which they read.

It being thus proved that the panel in this underhand and stealthy way obtained prussic acid, the question then suggests itself, For what purpose did he obtain it? He told Ferguson in giving him the line, not to tell any one what he fetched, and not to give what he brought to any one but himself. He told him again a second time on getting it, not to tell any one what he had brought to him, and if any one asked, to say it was twopence-worth of lozenges. What, Gentlemen, is the meaning of all this secrecy? If he got this prussic acid for no *bad* purpose, what was the use of all the mystery about it? There seems to be only one explanation which must force itself on your minds.

Then you have the falsehoods he tells as to his purpose in getting it. Passing by what he says in his Declaration, that he never got it at all, which I suppose by this time you cannot take as the truth, he tells Ferguson he wanted it as a hair-dye. He could not say to him he had never got it. With *him* there can be no doubt on that point. He tells him he is getting it to dye his hair. Now, Gentlemen, that is not true. Prussic acid, as has been proved, is not a hair-dye; and the panel's hair is not dyed. Prussic acid produces no effect on the colour of hair. It has been steeped by the Drs. M'Kinlay in prussic acid for various periods of time,—some merely dipped in it, some steeped in it for five minutes, and some for twenty-four hours,—and it produced no change whatever. In Miss Smith's case, there was a good deal of evidence to prove that the purpose given by her for getting arsenic was a possible purpose, and parties were examined to prove that Miss Smith had both heard and read of it as a cosmetic, and that in point of fact it was used for improving both the complexion and the wind. In this case we have had no evidence whatever of that kind. None to prove that prussic acid was a hair-dye, that any one ever even heard of it as a hair-dye. In these circumstances, I think I am entitled to say prussic acid is *not* a hair-dye. You thus have it proved that the panel got prussic acid on the morning of Sunday, the 13th September, and that he gave a false reason for getting it. If that be a false reason, what was the true one? That is the question which I now approach. It will be for you to say, if you can have any doubt on that question.

Keeping in view, then, that the panel was in possession of prussic acid, got in this stealthy and suspicious way, on the morning of Sunday the 13th September, had he any opportunity of administer-

ing it to Agnes Montgomery? If you take his statement as contained in his declaration, he had not. He says, on going out after dinner, the little girl, Janet Watson, knocked on Agnes Montgomery's window for him, and he went up to give her a halfpenny which he had promised her in the morning; that he went up, met Janet on the stair coming down, and came down with her, and never was in Agnes's room that day at all. If this be true, he had not the opportunity. But, Gentlemen, is it true?

It is not true that he went up to give Janet a halfpenny which he had promised her in the morning. He had given her a penny at dinner-time, a few minutes before, and she had bought four red balls or sweeties, and given her mother the remaining halfpenny. The promise of the morning had been fulfilled, and that obligation had been cancelled.

It is not true, Gentlemen, that he was not in Agnes Montgomery's room that day. William Young is standing speaking to Agnes when the panel comes out from his dinner, and he sees the panel go into the entry leading to her room, and she leaves Young and follows the panel. Then you have the evidence of the girls, Janet M'Gregor and Catherine Cochran, who carry the message from Janet Dollar to Agnes, asking her to come and take the walk. Agnes asks them to bring a bottle of beer from Dollar's. They go and take it back to Agnes, and on both these occasions these two girls tell you the panel is in the room with the deceased, along with the little girl Janet Watson.

I may remark in passing, that I offered to examine the little girl, Janet Watson, who you thus see was the only party present beside the panel and the deceased, but that was objected to by my learned friend on the other side; the Court have decided that her evidence is not competent, and I bow with the utmost respect to the decision of the Court. I content myself with making this one remark on the subject, that I tendered the evidence, as I had no desire, and did not feel that I was entitled at my own hand to keep back any evidence, on so very important a point, that could be considered legally admissible; but that, having tendered the evidence, and it having been decided that the evidence of this child is, in the circumstances, not admissible, I feel discharged of any responsibility in the matter, and am satisfied.

But I am afraid, Gentlemen, that the rejection of this evidence is of very little consequence to the panel's case; because, next you have the very important evidence of Bell Law and David Clarkson. Their evidence seems to be quite as strong as if they had been eye-witnesses to what happened inside the room. Bell Law, who lives in the room next Agnes, on the one side, heard Agnes unlock her door on coming home from church; she heard a heavy fall in Agnes's room, and then she heard what she called like 'a wrestling, and feet rustling along the floor,' and in a minute she heard some one come out of Agnes's room, lock the door, and take away the key. At the time she sup-

posed it was Agnes herself. But she immediately afterwards heard a moaning in the room. She goes in with some others, having got Clarkson's cellar-key, and finds Agnes in the room, and then, of course, she knows, and is satisfied, that it was not Agnes who had gone out.

Put that evidence alongside of David Clarkson's, who lives in the room next Agnes on the other side. He hears the same heavy fall or 'thresh' on the floor as he calls it. He thought at the time it was the panel throwing Agnes down in fun, and that it was curious conduct for a Sunday night. But his door is open, and he is sitting so that he can see Agnes's door from his fireside. He sees the panel then come out, lock the door on the outside, and go down stairs. He then saw the panel come up again, put his ear to the back of Agnes's door and listen a moment, and then go down stairs again.

Taking the combined result of these two witnesses together, it is proved that the panel was present when Agnes fell, that he left her, and locked her in. It will be for you to say, by and bye, whether there is any room for doubt that he lifted her on to the chair, that he locked her in, so that, if possible, no one should get in before she was dead, and that his listening at the door was to ascertain if all was yet quiet.

But, in addition to this evidence, you have also the panel's statement to Fulton and King that night, and to Mrs. Young and others at the coffining next day—that he had been the last person who saw her alive, and that when he left her she was breaking sticks to kindle her fire. So far, this is true—he had been the last person present; but it is not true that she was breaking sticks. No sticks were found about the floor, and the girl Janet M'Gregor told you there was a good red fire burning, so that there was no need to kindle the fire.

Then you have the statement to the Police on his apprehension,—that he was present in the room when she was taken ill, on which I make no remark, as perhaps it might have been better had the Police put no question to him on the subject.

In passing, it may be proper that I state here what is my theory as to the mode of administration. It is stated in the Indictment that the panel administered the prussic acid, or other poison, 'in beer, or in some article or articles of drink or food, to the prosecutor unknown, or in some other manner to the prosecutor unknown.' It is not necessary under this, however, that I should prove the particular mode of administration, if you are satisfied that in some mode or other it was administered by the panel; but at the same time I state in the Indictment what I suppose to have been the probable way. Janet M'Gregor took up a full bottle of beer a few minutes before Agnes fell down. No full bottle of beer is found in the house. Mrs. Young finds one with about two gills of beer at the bottom of it, there being about two fills of Agnes's tumbler out of it. It was proved to

you by the doctors that beer would be a peculiarly good medium for administering prussic acid successfully. You will remember she went up to get her tea. What I merely suggest as the probable explanation of the matter is, that the panel, who had just had his dinner, asked for a glass of beer, and that after getting one he filled out one for her, into which he, unobserved by her, poured the fatal dose. While I state this as what seems probable, I again repeat I am not bound, under the Indictment, to prove how it was administered, if, in point of fact, you are satisfied it was administered in some way or another by him. You will remember Janet Dollar's question to the panel about the beer. She asked him 'had he got any of the beer?' He told her that Janet M'Gregor was coming in at the front door of the entry with the bottle, while he was going out at the back door. That is proved not to be true, and it is for you to say what reason the panel has for endeavouring to keep himself so clear of this bottle of beer.

After leaving the room with little Janet Watson, he takes her to the back green to gather flowers, as he says. Mrs. M'Donald passes him on his way to the particular part of the green where only flowers grew. That is beside a particular rose-bush which you will find marked on the plan. James Watson, William Young, and Edward Hinshelwood, see him on their way to take a walk, and what is remarkable, they all notice something peculiar about his appearance; and remember, Gentlemen, at this time *they* did not know that anything was wrong with Agnes Montgomery. They heard nothing about her till they returned from their walk, and then they heard that she was dead. It is not very easy to explain in what way a person looks peculiar, but the important fact here is, there was something about his appearance *then* that attracted their attention; and not only so, but they talked about it at the time, and James Watson said—'Did you ever see Jack look so strange like?' No wonder, Gentlemen, he looked peculiar and strange like,—he had been in the room when she fell down, he had locked her door and left her to die, he had just been listening to see if she was dead, he had the phial below his foot, and the key of her room then in his pocket;—no wonder he looked peculiar and strange like—*his face betrayed him!*

Then you have the evidence as to the phial. Hugh Montgomery and Mrs. Cameron walk quietly and slowly up the walk past this rose-bush, about five o'clock, and they notice nothing then, and they tell you if a phial had been there they think they must have noticed it. At a quarter past five, James Watson sees a phial on the walk near the rose-bush, just where the panel had been, as if crushed into the walk with a foot. Next day, James Watson, in presence of Mrs. Clarkson, picks up the pieces and throws them away, remarking 'It is a droll place for a person to put glass, as it might hurt the weans' feet.' So much for the phial.

While the panel is below, Agnes is discovered. The groans are heard. Fulton and Muir go up to the door of her room to look for

the panel, but they can't get in. The neighbours and friends can't get in either, until Mrs. Young remembers that Clarkson's cellar-key fits the door. That key is got, and they go in and they find her as you have heard, exhibiting all the symptoms of poisoning by prussic acid. Mrs. M'Donald comes down and asks some one to run for the doctor. Fulton and Muir are both below along with the panel, but the panel is now the active party in assisting—he runs for the doctor.

While away for the doctor, a most peculiar circumstance takes place;—two different parties, Mary Gemmell and Janet Hogg, from different houses, both see him come running to the doctor's house, and on his way back they both see him go up to a tree, and stoop down at the root of that tree. At the time they think nothing of it, but when, afterwards, suspicion arises, they mention what they had seen. That place is thoroughly searched; and there, hid below some long grass which is doubled down over it, the key of Agnes Montgomery's room is found by James Kean, the grocer, in presence of the officers. As you were told, it was so concealed that unless they had minutely searched that very spot, it probably would never have been found. Thus you see the peculiar value of circumstantial evidence, how it all fits in and forces conviction on the mind. You see also how all this supports and confirms the evidence of Bell Law and David Clarkson. Thus there can be no possible doubt but that the panel locked Agnes in and took away the key, as told by Law and Clarkson, and hid it at the root of this tree, as told by Gemmell and Hogg, where it was found by Kean and the officers.

When the panel returned to the house, as he did immediately after hiding the key, he made use of a most curious and significant expression. He told them, when he came back, he felt so faint that he had leaned against either the bridge or a tree, the witness was not quite sure which. If innocent, why did he feel faint? Remember he had just been stooping at the tree; he had just hidden the key there; he knew it was possible some one might have seen him, and it is for you to say whether it is not probable he was then giving a reason for being near the tree, in case any one had noticed him there. He then proposes to assist. He throws off his coat, and wishes to assist in putting Agnes into bed. There was no assistance before; then when alone with her he was not assisting; then he had left her and locked her in to die. Now, in presence of third parties, he proposes to assist; then when alone he *was* assisting her, but *not to live at least*. Now, before others, he would assist her to live; then, I am afraid, he was assisting her to die. His assistance, however, was not wanted. Mrs. Watson motioned to Fulton to go out, and the panel was taken out.

But my learned friend, Mr. Moncrieff, may possibly ask what motive could the panel have to murder Agnes Montgomery? I reply, in answer to that, it is not necessary I should prove any motive. The motive may exist in the panel's bosom, and be known

only to himself. If you are satisfied on the evidence otherwise, that the poison was administered by the panel, it is not in the least necessary that I should be able to point out the motive by which he was actuated. In a case where one party kills another by a blow, it may be very important to know the panel's motive, because on that may depend the fact whether the crime is murder or only culpable homicide. In a case of poisoning it is quite different. There you have the previous preparation and the deliberate intention to kill, and if any offence at all is committed it is murder, and the motive is of comparatively little importance. I have thought it right, however, to lay before you whatever evidence I was possessed of as to motive. The deceased had said the panel was a blackguard, and told lies. She may have discovered that he was living there under a false name, and she may have discovered the secret of his previous history. You will remember the panel said to William King that 'some of James Watson's people had an ill-will at him, but that he was determined to do for the b——rs yet.' Putting these things together, one now sees what that threat may have meant. Then you will remember that Agnes got £4 every two months from her sailor brother. His motive may have been to get any part of this money he could find about her person, or in the house. Again, you will remember Mrs. Wallace's evidence. Agnes told her that the panel had asked her if she would like to live in Glasgow, and had told her a falsehood, saying that all his friends were dead; that he had succeeded to all their property, and would bring down the old family Bible; that Agnes had considered it, and mentioned it to Mrs. Wallace as a proposal of marriage; but she had told him she would not have him. She knew too much of his character; she rejected his advances with scorn; she thought him a liar and a blackguard. He had a great admiration for her; so he said to different people. His motive may have been one of hatred and revenge. He may have resolved, that if she would not have him, no one else should have her.

While I throw these out as what possibly may shed some light on his motive, I again repeat I care not what his motive was. I don't require to prove any. The panel, I have proved, was a party who poisoned without much motive. If he had little ostensible motive for poisoning Agnes Montgomery, he had still less motive for poisoning the Masons in Glasgow, as has been proved to you he did.

To conclude, on this part of the case, Agnes Montgomery was poisoned by one lately in her company. The panel was last in her company. She was poisoned by one who was in possession of prussic acid. The panel was in possession of prussic acid. She was poisoned by some one who locked her in and took away the key of her room. The panel locked her in and took away the key. She was poisoned by some one who had within his reach a phial in which the poison had been contained. The panel was beside the rose-

bush, close to which a phial is found crushed into the walk. She was poisoned by some one who was present when she fell, and who lifted her off the floor and set her on the chair in which she was found. The panel was the only party present. He was present when she was taken ill, and he must have lifted her and set her on the chair. The separate rays of evidence, when collected, all come to one focus. They all point to one individual, and that individual is the panel at the bar.

I now come to say a few words on the two Glasgow charges. These are what are called alternative charges. He is charged with administering prussic acid to Mrs. Mason and her husband on the 25th September, either under the statute or at common law. The statute makes it an offence to administer poison 'with intent' either 'to murder or disable,' or 'to do some other grievous bodily harm.' If you are satisfied his intention was to do any of these things so specified, it will be your duty to find him guilty of the statutory charge. If, on the other hand, you are not satisfied as to his intention, you can then find him guilty of the common law charge of administering the poison, whereby, irrespective of intention, any of the lieges were put in danger of their lives, or were injuriously affected in their health or persons.

The evidence on this part of the case is very short. The panel leaves Eaglesham on the Friday night, 25th September. James Watson and Muir take a parting dram with him in the public-house there. He tells them he is going to Mason's house in Glasgow. Jackson, who keeps a public-house on the road between Eaglesham and Glasgow, informs you the panel comes in and purchases whisky, and gets it away in a pint-bottle. He arrives at Mason's house, and they tell you what took place. He fills a glass out of his bottle for Mason. He takes a little, but thinks it bad, and feels a sudden flush on his face, and refuses to take more. The panel then fills up the glass for the wife. She takes a part of it, somewhere about a third of the glass, and is seriously ill. She goes down and becomes dizzy and stupid. She sees double; she becomes powerless; the clothes she had in her arms drop from them; she loses the power of walking, and crawls up stairs on her hands and feet; she becomes cold, as cold as ice, and shivering; she vomits, and is ill for two or three days, which illness was explained by the doctor, that her stomach would be affected for that length of time after the immediate effects of the poison had passed off.

The panel is next morning apprehended in Mason's house on a charge of theft. He leaves this bottle behind him. Mason let several taste it, and they are all affected. It is secured by the police, and examined by Dr. Maclagan and the Drs. M'Kinlay, and it is found to consist of whisky and water, mixed with prussic acid. It is so strong a mixture, that if either Mr. or Mrs. Mason had drunk all the panel offered them, they might have died. She was seriously ill with only a third of the quantity. No thanks to the panel they

did not take the full glass as offered by him. The mixture was brought by him to the house—filled out by him—handed by him to them—pressed by him on them; if they had done as he evidently intended, the panel might have been at the bar to-day charged with more than one murder.

If you are satisfied of his guilt on these Glasgow charges, they throw some light on the Eaglesham charge. I need not disguise from you the fact, that that is the really important charge. With these remarks I leave the whole case in your hands. I regret that I cannot see my way open, consistently with the due discharge of my duty, to take any other course than to ask you for a verdict against the panel on all the three charges.

MR. MONCRIEFF then proceeded to address the Jury for the prisoner as follows:—

Gentlemen of the Jury,—After the attention you have given to this case, with the knowledge which you now have of its nature and importance, I need scarcely ask your anxious attention, while I attempt to discharge what I feel to be a very difficult duty. If the learned Counsel for the Crown has asked your forbearance, in how much larger measure is it needed by me; and, looking to the immense importance of the question at issue, both to the public and to the prisoner, I feel satisfied that I shall not ask for it in vain.

The first question to which your attention was called by the Advocate-Depute is that which, in every charge of murder, lies at the foundation of all the rest. Before investigating the connexion of the prisoner with the crime, you must see that a crime has been committed. Was Agnes Montgomery murdered? is the first question. If she was, did the prisoner murder her? will come to be the second.

Now, Gentlemen, I am not bound, in considering this first question, to explain the cause of death. I am not bound to put forward any distinct theory, in answer to the theory which proceeds on the assumption of the prisoner's guilt. That latter theory must be established beyond any rational doubt before you are entitled to give it credit. Hence, I care little to follow my learned friend through the elaborate argument by which he endeavoured to negative the idea of suicide, or of death from natural causes. It may be true that the deceased did not appear during her life a very likely person to commit suicide; it may be that her presence in church on the Sunday of her death was an improbable preparation for such an act, and it is true that we have been unable to show that she possessed, at any time, the means of self-destruction. So be it. Suicide may have been committed nevertheless; and at the very best, we only get the length of finding, that on the whole it seems not a very satisfactory explanation of the girl's death; taking everything into account, perhaps rather an improbable theory. As to the exclusion of all natural causes, as explaining the death,

we shall see more by and by ; but supposing, for a moment, that they, as well as the theory which might account for it as the result of accident, stood in the same position, each theory viewed by itself not on the whole seeming probable—what then ? Why, Gentlemen, the theory which is put forward in opposition to those I have referred to, is that which finds the explanation of the death in a greater improbability still. Murder is the greatest improbability of all. As long as you are in the region of mere probabilities, take refuge in any rather than in that ; cling to any other, or to all the others, till they are torn from your grasp, ere you are driven to that, to which, with all its awful consequences, you must be forced by irresistible proof, before you are warranted to go.

And if this be so as to murder generally, much more is it important here. For here murder by a particular poison is the foundation of the Crown's case, and it will be necessary for you not only to be satisfied that the death was caused by murder, but that that murder was effected by the use of prussic acid. Of this you are to be satisfied by medical evidence, and the Advocate-Depute has gone through the medical evidence very fully with that end. Even as he did so, you must have felt how unsatisfactory it is in its result. Let us look at it a little in detail. First of all, an attempt is made, by the result of the *post mortem* examination taken in connexion with the symptoms which are said to have preceded death in the present case, to exclude certain natural causes of death which might suggest themselves as possible in the circumstances. Apoplexy, we are told, is excluded—excluded how ? Why, we are told first, that in apoplexy there is generally congestion of the brain, and there is no congestion here. But, gentlemen, in death by prussic acid there is generally congestion of the brain too—and there is, besides, admittedly, a species of apoplexy in which there is no congestion. But again, we are told, that the illness was so short in the present case as to be inconsistent with death by apoplexy. We shall see in a little how far the length will correspond with death by prussic acid ; but as to apoplexy, have you not all in your own knowledge materials which enable you to appreciate the worthlessness of the consideration in reference to deaths from apoplexy ? Have you not yourselves heard or read of deaths attributed by medical men to that cause, where the duration of the illness was no longer than in the present case ? and do you not know, as a fact, that the only medical gentleman who actually saw the poor woman in the present case, did, as matter of fact, attribute her death to that cause in his certificate to the registrar ? If this is the way by which apoplexy is excluded, we may pass the rest of this negative part of the case very lightly. And without even referring to epilepsy, I leave it to you to say whether on such grounds you are able to arrive at the conclusion, that neither of those diseases could, in the present case, *possibly* be the cause of death. Remember only, that besides those diseases to which names can be affixed, there are natural causes of death which science can neither

explain nor detect, and say how little we are advanced in our inquiry at the present stage ; how little is made impossible ere we go on to consider whether anything is positively established.

But if this be so, let us see what we have of positive evidence. And first of all, the symptoms that preceded death are said to correspond with those produced by prussic acid. Of those symptoms we have been furnished with two different accounts. The Advocate-Depute has adopted those which were observed and detailed by Mrs. Watson and Mrs. Macdonald, to the exclusion of those which were observed and detailed by Dr. Scott. Without inquiring how far those observed by the former parties tally with the symptoms which generally follow a fatal dose of prussic acid, I take the liberty of adopting as the only correct and reliable account of the symptoms actually observed, that which was given us by the medical gentleman. Doubtless the two women gave distinct and apparently honest evidence, but they are only country women, unaccustomed to observe, and still less accurately to note or remember the details of such a scene, liable to be influenced by what they may subsequently hear, and with the tendency which we all have, however honest, to make half-remembered observations of a scene long past fit into a proper correspondence with what we have come to believe they ought actually to have been. Think of that one prominent symptom 'a glistening eye,' spoken to by these women. Is it likely that such witnesses could have any actual knowledge of the appearance indicated by that expression, and this very symptom is one that was not observed by Dr. Scott during all the time he was present with the deceased. Could he have failed to notice it had it really existed ? He is a witness for the Crown—a medical man—present both at the time of Agnes Montgomery's death, and afterwards employed along with others, to conduct a *post mortem* examination ; and I put it to you, that you are bound to accept his evidence on this subject, to the exclusion of all other evidence whatever. And if you do ; recall his evidence to your mind, and say if in any of the symptoms observed, there be anything either as regards the eye, the pulse, the breathing, or the alleged spasmodic movements at all peculiar to the action of prussic acid, as that has been spoken to by Drs. M'Kinlay, Maclagan, and Penny. But in truth, in such a case as death by prussic acid, few symptoms are much to be relied on. Rarely does such a death occur, more rarely is it seen, and short, even when it is seen, is the time for observation ; and perhaps after all we have heard on the subject, the only symptom upon which we have sufficient data for placing much reliance is the length of time which elapses between the dose that is taken and the death that ensues. Upon that we have pretty clear evidence in this case, and I think the result of it has not been unfairly stated by my learned friend, who has fixed the time at somewhat less than an hour. Mrs. Macdonald heard the cries of the deceased about a quarter past five, which must have been some little time after the prisoner left the deceased, for he was then down in the garden, and the death took

place about six o'clock. We also know the quantity of the acid which is said to have been given by the prisoner. It consisted of about 120 drops of Scheele's acid, containing, according as you adopt Dr. Maclagan or Dr. M'Kinlay's analysis, from three and a half to nearly five grains of pure prussic acid. So that the state of facts with which we have to deal in the case, put forward by the Crown, is a dose of about four grains of pure acid, followed by death after an interval of nearly an hour. How does this correspond with the usual action of the acid? My learned friend was very far mistaken when he spoke of the illness in this case as of the average length; why, gentlemen, it is unparalleled in the history of the poison—a case new to the scientific world, differing in this particular feature of it from every other case on record. No case has been given us where life was prolonged beyond three quarters of an hour, only one where it has continued so long. And when we come to look at that case, the singularity of the present is all the more apparent. You have heard from Dr. M'Kinlay, that it was the case where death has succeeded the smallest dose ever known to prove fatal. The quantity taken, he stated to be about seven-tenths of a grain. Besides, that case occurred in the Bicêtre in Paris; the cause of the symptoms which succeeded the administration of the dose was known, and yet, though seven persons died from that small dose, in the very midst of the best appliances for recovery, and under the eye of men able to use these appliances to the best advantage, the *last* died in three quarters of an hour. If symptoms are to weigh with you at all, what will you say to this great fact? Can you possibly believe that a length of survivance which followed the smallest fatal dose on record, and which is noted for the singularity of its prolongation, has been presented in the case of this girl, after a dose five times as large? Such an amount, according to all our knowledge of the action of the poison, proves fatal in probably a very few minutes.

I pass over the attempt to strengthen this part of the case by the alleged detection of the odour of the poison. The odour is, as you have heard, the least reliable of all the evidences of the presence of prussic acid; and I need only remind you of how Mrs. M'Donald failed to recognise the odour in a bottle containing the acid itself, and described the smell she observed in the room as of a 'sicken- ing' nature, which seems in no way distinctive of the smell of the acid itself, to show you both the soundness of the low estimate in which evidence from odour is held, and how little help from it, even were it of more value, we get from that particular witness.

If, then, we are left in the dark by the purely medical evidence, let us see how far we are enlightened by the chemical examinations. You have been told that you have in this department the result of two independent experimenters. It is fortunate for the prisoner that it is so. Look at the reports which we have from those separate analysts, and see if there be a single point wherein they agree together. Even as to the strength of the prussic acid submitted to

them, and examined on successive days, they have differed so much, that Dr. Penny has told you, that if one of them be right, the other must be very far wrong. If chemical analysis admits of such mistakes as those, how can we trust it in questions like the present? And when we proceed to the part of the reports which are said to prove the detection of prussic acid in the remains of the deceased, the uncertainty of the evidence becomes still more apparent. The chemical report of the Drs. M'Kinlay is dated 15th October 1857. According to that report, these gentlemen were successful in detecting the presence of prussic acid in the stomach of the deceased by all the three ordinary tests. The iron, the silver, and the sulphur tests were all applied, and each in its turn gave those indications which are held to infer the presence of prussic acid, and which, when they are all found together by the simultaneous success of all the tests, afford as clear a proof of its existence in the body, subjected to analysis, as chemistry by itself can supply. So that if we stopped here, and were able to rely with confidence on the experimenters, we should have chemical proof of the presence of prussic acid in the stomach of Agnes Montgomery. But when we go from this to the report of the other independent experimenter, how do we find that he succeeds in the same experiment? Why, we find that he has the half of the same stomach; an equal amount of the material to analyze; we find that his report is dated a week earlier than the one we have been considering—you know the tendency of the acid to fly off by evaporation,—and the advantage thence arising from an early opportunity for analysis; and we find that he fails to detect the poison either by the iron or the silver tests, and succeeds to such a limited extent by the sulphur tests, as to obtain results such as 'to lead him to believe that there was present a minute quantity' in the stomach, in the first instance, or, after the stomach had been subjected to distillation, such as to indicate in the distilled fluid 'an exceedingly minute trace.' If we stopped here, could you rely on this as conclusive evidence? Could you take Dr. Maclagan's alone as sufficient in such a question, could you place much confidence in Dr. M'Kinlay's, differing so completely from the former gentleman, whose ability and experience in such matters is so well known? But there is more than this. The acid is said to have been discovered in another organ of the deceased, namely, the spleen. Now, in this latter organ, the analysts change places both in the order of time in which they report, and in the success which attended their investigation. Drs. M'Kinlay report in reference to the spleen at the same period as they report upon the stomach. *They find no prussic acid.* Dr. Maclagan reports upon it a month after his report upon the stomach, and he finds 'unequivocal proof' of its presence. He finds it by the sulphur test alone, which you have heard is so delicate as to be capable of detecting about the four-thousandth part of a grain of the poison; but still to that limited extent, and so far as one test uncorroborated can be relied on, he finds it cer-

tainly there. Gentlemen, what are you to make of these extraordinary discrepancies as to result in reference to both these organs; are they not sufficient to nullify the value of the deductions which the Advocate-Depute attempts to draw from this part of his evidence, and when science thus utters a sound so uncertain, will you not refuse to listen to it at all, upon such a subject as you are now considering?

But even if this conflicting testimony were sufficient to prove the presence of prussic acid, is there no way of accounting for it but on the theory of its administration previous to death? You have heard that there is. On the authority of Orfila, whose great reputation on such a question you have heard of, even from gentlemen who differ from his conclusions, you have heard that it is possible for prussic acid to be formed in the decomposition of animal matter. That such a formation does not sometimes take place, M. Orfila says, 'no one will dare to affirm.' It is true, you have heard various witnesses express their disagreement with Orfila on the subject, but where such a man has expressed such a belief, where the evidence against it is furnished by men speaking from the result of merely negative experience, will *you* not accept the view which that great man held, and in such a conflict of opinion, refuse to adopt the theory which involves the conclusion of the wilful destruction of human life? And let me say, there never was a case more favourable for the adoption of Orfila's theory than the present. If prussic acid was administered during life, it should be most easily detected *at first*. If it was formed by decomposition after death, it should be more easy of detection as decomposition proceeds. Drs. M'Kinlay reported on the stomach a week after Dr. Maclagan. They found it clearly where he all but failed. They reported on the spleen three weeks before him, and they failed to find it where he was successful in his search.

Let me only add, that if you adopt the theory of Orfila, it will not be the first time that his influence has been of avail in such a case as this, in preventing the fatal consequences of rash inferences from doubtful evidence. In 1841, M. Pralet, a Frenchman, after taking a little wine, took suddenly ill—he fell and lost his consciousness—and after six hours, during which consciousness but once returned, he died. He was buried on the 16th of January, and his body was exhumed on the 20th of that same month. Two doctors conducted a *post mortem* examination. An odour like bitter almonds was perceived from the abdomen. Six gentlemen performed a chemical analysis. Both the blue and red reaction followed the application of the tests, and they unanimously concluded, that Pralet was poisoned by prussic acid. Pralet's nephew was tried for the crime of murder, and sentenced to death. An appeal, which in that country is competent, was taken, and the case was referred to Orfila. He decided that Pralet had died from apoplexy: the sentence was reversed, and the man saved. And as a commentary on such a result, in a case apparently so clear, where

Orfila was alone, as he is on the present occasion, hear the verdict of one of our own greatest authorities, Mr. Taylor, after time has been allowed for thinking it all calmly over :—‘ It is impossible not to assent to the correctness of Orfila’s conclusion.’

In the uncertainty, therefore, in which medicine and science leave us, let us go to the facts and circumstances, by means of which the attempt is made to connect the prisoner with the mysterious and melancholy death. And the first thing to look to is obviously the one which the Advocate-Depute has put last. Let us see if there was any motive for the murder by the prisoner : had he any object or end in committing such a crime ? could he reap any advantage by the deceased’s removal ? was there any ill-will or bad feeling on his part which might be gratified by it ? Gentlemen, there was none. We are told by my learned friend, that in such a case motive is of little importance. I apprehend that it is just in such a case that it becomes of the most vital consequence, for this is a case depending on circumstantial evidence, and the presence or absence of a motive is the strongest of all circumstances. And therefore it was, that although you are now asked to attach little weight to this consideration, there was such a straining in the evidence after some motive, the suggestion of a vast number of feeble possibilities of most unlikely objects, which broke down in the very attempt to build them up. Mrs. Watson spoke to the fact, that the deceased got occasionally money from her brother, but no money is averred to have been got from her by the prisoner, and none was missed at her death. Mrs. Watson also told us the silly story of Agnes having called the prisoner a liar behind his back, which he apparently never heard of. Then you had the story of the water thrown on the prisoner by the two girls, of whom Agnes was one. Need I say that there is no appearance in it of anything beyond a stupid joke ? But William King comes with apparently a more serious story, for he heard the prisoner, in the Cross-Keys public-house, saying, that he was ‘ at variance ’ with some people, and King thought it was Watson’s people, with whom Agnes lived. But the Watsons are here to speak for themselves ; and we hear nothing of the variance from them ; and the occasion of the remarkable interview was a month before Agnes Montgomery died. Then we have Janet Wallace, telling us of that conversation between the prisoner and the deceased, of the import of which you can judge for yourselves, which she somewhat fancifully magnified into an offer of marriage by the prisoner, and which my learned friend treats with still brighter colouring as the refusal by the deceased of that offer *with scorn*, but which, as if not weak enough as a theory by itself, is followed by the scene spoken to by Mary Donald between the prisoner and the deceased when they were evidently on the very best of terms. Desire of gain, revenge, slighted love, have thus been tried in turn, and each has utterly and entirely failed. Not only has no motive been established for the act, but every attempt to do so has only afforded ground for believing in its improbability ;

and you will require the strongest possible evidence, I am sure, in such circumstances as these, ere you convict the prisoner of a murder so cruel and so unnatural.

And what are the circumstances that are to afford evidence sufficiently strong for being accepted as conclusive in such a case? Why, he heard of prussic acid, as a violent poison, in a conversation about Miss Smith's trial, where all he said, if you remember, rather increases the improbability of his committing such an offence as he is now charged with; and some time after, he appears to have obtained some of that acid. You have been told he got it secretly, and gave a false reason for wishing it. That proves that he knew the difficulty of getting it, of course; and the fact of his possessing that knowledge is sufficient to account for the secrecy and the false reason without any more violent hypothesis. As to how he used it, or why he wished it, these are questions as to which unfortunately I can give you no certain light. Nor am I bound to do so. The object of your inquiry now is, whether he used the poison for the murder of Agnes Montgomery, and as that must be *proved* to be the use to which it was actually put, it is needless for us to speculate upon the question. Then again we are told that the prisoner was with Agnes Montgomery shortly before she died, and that he had an opportunity to commit the crime. I take it we are not far advanced in our inquiry if we have only reached thus far—that a man who had no motive had an opportunity of committing murder. An opportunity makes it possible—it never by itself makes it likely; and when the person having it has no motive for the deed, it leaves it just about as unlikely as before.

Of what passed during this averred opportunity, we have no evidence. The conduct of the parties was unseen. Two of the witnesses indeed heard certain sounds, and upon the authority of those sounds you are asked to believe that at that period the prisoner committed the crime of murder. These sounds have been explained by my learned friend, and he has attempted to bring them into harmony with what he asks you to accept as the true account of what then took place. Let us see what the sounds were themselves. Clarkson hears a great rumble, and a desperate thrash on the floor, and he then sees the prisoner go down the stair. Mrs. Law also hears a fall, followed by a sort of dragging sound, and the sound of a step on the stair. Now those are the sounds themselves by which you are to attempt to unveil this mystery. What can you make of them? What did the witnesses make of them at the time? Nothing seems to have struck them as suspicious. Clarkson thought it strange conduct for a Sunday, and that was all. Excluding all subsequent discoveries, we have in those sounds nothing worth referring to. When we know that soon after the sounds were heard, Agnes Montgomery was discovered dying, and when the prisoner is apprehended on a charge of poisoning her, such sounds somehow are apt to get modified to suit the supposed occasion, and they have at length been described in the address of the Advocate-Depute as

explanatory of the circumstances of the poor girl's death. The first sound, we are told, was caused by the girl's fall on the floor immediately on the administration of prussic acid. Such we know to be the natural effect of a fatal dose of that poison. But she was not found on the floor; she was sitting on a chair, and we know that it is not consistent with the action of that poison, that having once fallen, as we are told she did, she could ever raise herself again. How did she get upon that chair? You are asked to believe that the prisoner raised her himself, and ground for this belief is supposed to be discovered in the sounds heard by Mrs. Law. Even if the thing were a more likely one, those sounds would do little to establish it. But consider how very *unlikely* the thing is in itself, and say if you will listen to such evidence for a moment. Why should the prisoner put the poor girl whom he had just poisoned—if the theory put forward for the Crown be true—upon the chair? He had no object or end that we have heard of in moving her from the place where she fell. And yet before you receive the explanation of this mysterious scene given by my learned friend, you must accept it with all its improbabilities upon evidence which, viewed by itself, is in the highest degree weak and inconclusive. It is not, however, to be looked at altogether alone. Certain other facts are founded upon by the Crown, to supplement and strengthen it. First of all, when Agnes Montgomery is found, her door is locked, and the key is gone. Clarkson and Mrs. Law *hear* the door locked, and infer that it was locked from the outside. Their reasons for the inference shew it to be worthless. Clarkson tells us that 'Aggie was past locking then;' and from this assumption, he now draws the inference which is to help to prove its truth. Mrs. Law knew that Agnes was in the habit of going out and locking the door behind her, and hearing the step on the stair after the locking of the door, fancied it was the step of Agnes, and supposed she was following her usual course. Such are the grounds for the inference that the prisoner locked the door, and took away the key. And no wonder the grounds are no better. Because they depend upon the sense of hearing, and the door made the same sound whether it was locked outside or inside. Remember too that the absence of the key is no proof of the locking having been from the outside, for the lock was an open lock, which was locked and unlocked inside *without* a key, and there is no evidence of the key having been seen in the lock shortly before the period in question. Add to all this that the prisoner had no reason that has been told us for locking the girl in, if he was guilty, while she may have had a reason for locking herself in, and say, if there is any proof whatever, so far as we have gone, of the prisoner having locked the door and removed the key. But you have been told that the key was subsequently found at a place where the prisoner was observed to be. The witnesses Mary Kean and Janet Hogg saw the prisoner, while going from the doctor's house to the house of the deceased, stooping beside the tree where, long afterwards, the key was discovered. If the

prisoner placed it there, he selected a very remarkable place for concealment. The tree is near the scene of the alleged murder, in a most open situation, and close to a public well. How it had got there, if not placed there by him, of course it is impossible to say. That similar keys were common in the district, is obvious from the facility with which one was obtained to open the door on the occasion of Agnes Montgomery's illness in the immediately adjoining house ; and you can easily conceive the possibility of some key having been placed there after the circumstances connected with the prisoner's apprehension had produced the excitement so natural in such a village, with the intention, whether morbid or malicious, of filling up a gap in the chain of evidence. But the prisoner had spoken that night of having felt faint while coming from the doctor's house, and being obliged to lean against ' either a tree or a bridge.' Let us take it at the worst, and suppose that he said a tree. My learned friend asks, with great solemnity, ' If he felt faint, why was he faint ?' I cannot answer that question, but I ask another. Why did he *say* that he was faint ? Surely the fact that he did so, and that he referred openly to a tree as the locality of the faintness, goes far to negative the idea of his having then newly hidden the key of Agnes Montgomery's room at such a spot, and shows that he had not the guilty knowledge of such a fatal secret then burning in his bosom. As to the glass observed by Watson in the garden, I need scarcely speak. Glass might, in such a place, easily be found. That it was the glass of a phial left there by the prisoner at that time, is altogether improbable. It was the place where Watson was constantly in the habit of walking. It was lying openly in the very middle of the path ; and the footprint that was observed, and which I suppose you are to infer, had been intended to crush, or perhaps to conceal the fragments, had left so slight a mark, that you were told by the witness the dew might wash it out. The most of the other evidence against the prisoner consists of symptoms of guilt which are said to have been observed in his appearance and manner after the occurrence. Even if you accept them as fully credible, they come to very little. Watson said he looked a little white in the garden ; to another witness he appeared agitated. When Mrs. Young gave him wine on the occasion of the girl's funeral, he hung down his head. And there are one or two other appearances now spoken to, equally insignificant. Believe all this if you will, and say if there be anything here more like guilt than sorrow ; and would it not have been astonishing if any spectator of the sad scene, that had so lately terminated, had not given some indications of distress ? And when now these little things are all called up to mind and used against the unfortunate prisoner at the bar, after the suspicions that have been aroused against him have availed to teach the observers to interpret them as they seem now to do ; only remember that at first they were interpreted in a very different manner. To appreciate their true value you must inquire what was thought of them at the

time, and in answer to the inquiry you discover that in no one of all these observers did they arouse a single shadow of suspicion. These then, Gentlemen, are all the facts, for I pass over the attempt to show that the prisoner attempted to prevent any intercourse between the little child and its mother, which, as they always slept together, is obviously unworthy of observation—these are all the facts which tell against the prisoner. Let us just see, before closing this part of the case, whether there are no facts which tell in his favour. The alleged murder happened on a Sunday, the afternoon of which day he was known usually to spend with the deceased, with whom he was on the best of terms. It happened just at the time when two men, Muir and Fulton, were in the habit of coming for him—at a time, too, when he must have known that the deceased had made an appointment with Janet Dollar to come for her. He took his tea with the Watsons calmly, just before he went to the girl's room. Nothing peculiar was observed about him, though there were many there to see. My learned friend has said in reference to the personal indications to which I have already spoken—'No wonder he looked peculiar, and that his face betrayed him.' Greater wonder, surely, that he did not look peculiar at that tea-table. The friends of the poor girl were sitting around him; the poison, if he be guilty, was then in his pocket; he had but a few most critical minutes for the perpetration of his awful purpose ere he knew he could be no longer alone; and, if conclusions drawn from his personal appearance are worth anything at all, nothing, surely, could be conceived more discouraging the idea of his guilt than his calmness at such a time, and in such company. After he left the Watsons, he seems to have made no attempt at concealment; he was seen, and seems to have had no wish not to be seen. He left no indications in Agnes's room of the administration of poison—he went for the doctor with alacrity after she was seized with her illness. He admitted openly being the last person with her before she was taken ill, and he expressed sorrow for her loss. He made no attempt to leave Eaglesham after her death, and he was never suspected there during all the time he remained, till he was obliged to leave in consequence of some little theft for which justly or unjustly he was blamed. My learned friend has spoken of the case as one in which every link fits in. A flaw in one link, a defect in any part of the chain might render all the rest of it unsafe for you to trust; but have I not shown you that many links are weak and some are wanting, and can you accept it thus damaged by my feeble scrutiny as sufficient, because, perhaps, some parts of it look strong, to peril upon its stability all that you are asked to do?

In regard to the other charges of attempts to murder, I need not detain you. The evidence in reference to the dealings with the bottle before it was given to the authorities for the analysis of the fluid contained in it, shows that it was readily accessible to many, and destroys all confidence in the identity of the fluid examined, with that brought by the prisoner to the Masons' house. The symp-

toms which were presented by the Masons after partaking of the fluid, are not reliable as conclusive of the presence of prussic acid, while in the witness Waddell, who took as much of the fluid as Mrs. Mason, the symptoms which appeared in her were not exhibited. On the whole, the evidence is such as I submit you will not consider satisfactory or sufficient.

These latter charges have, however, been used by the Advocate-Depute as strengthening his case on the former charge. I think you will not find in them the confirmation which he seeks. Take them together if you will. Perhaps the second charge can only reasonably be relied on as explaining or enforcing that one very important matter in regard to the first charge to which I have already directed your attention, I mean its motive or object. If we could see a motive for the second, we might be helped in our search after a motive for the first. But in the second as in the first case, such motive or object is wholly wanting. The crime, if committed, is committed again upon friends with whom he was on the best of terms, with no reason which can account for or explain it. And viewing the case thus all together, I ask you, can you regard the prisoner as guilty upon any theory consistent with the idea of his being a sane man?

Looking back, therefore, for a moment to the first charge which you are trying, are you safe to convict in the face of all these difficulties? If Agnes Montgomery was poisoned by the prisoner, she was poisoned by one who, as far as we see, had no desire for her death, and could gain no object by its occurrence; who exhibited pleasure in her society during her life, and expressed sorrow after her death; who, immediately before the act, while his mind must have been almost maddened by his fearful purpose, and the friends of his victim were sitting round him, looked most unlike a murderer; and of whose guilt, for a long time afterwards, not one of them either expressed or entertained a thought. If again, Agnes Montgomery was poisoned by prussic acid, that acid has been detected in circumstances, and after a length of time almost unknown in science. She lived after a very large dose of the poison, perhaps longer than any ever lived before after a fatal dose, however small. And if the chemical evidence is to be relied on, it goes far to favour the idea of the formation of the acid after death, the possibility of which I am able to ask you to believe upon at least one very great authority.

Gentlemen, I have done. In this long case I may have omitted much, and I may have put weakly what might have been more strongly urged. With my short experience I have reason to be glad, that what I have omitted will, I know, be supplied by the Court, and that in his Lordship's charge you will have what may be wanting here in favour of the unfortunate man before you. And even when that is over, may I not hope that in such a case as this, dealing with a matter which no human eye has seen—a crime committed, if crime there were, in the presence only of the Infallible

One—may I not hope, if I may use better words than mine—that there is a voice within you, to which, though we be silent, you may listen still, prompting you, in circumstances of mystery and doubt, to the side of mercy? If such there be, need I press upon you not to let it speak in vain? Believe me, it comes from a higher source than can fall upon the outward ear. It is the voice of Him who cannot err; who cannot lead His creatures into error; who, to justice without limits, unites mercy without bounds; and who ever makes His promptings known to His children upon earth, in the soft and soothing accents of clemency and peace.

THE LORD JUSTICE-CLERK'S CHARGE TO THE JURY.

The LORD JUSTICE-CLERK thereafter proceeded to deliver his charge to the jury; of which the following are correct Notes:—

Gentlemen of the Jury,—There is one great peculiarity in this indictment—that the charge of Murder is followed by two charges of subsequent administration of prussic acid, or other poisonous substance, with intent to kill. I was quite prepared, if the Counsel for the prisoner had stated that he would suffer any prejudice by going into these cases of subsequent use, and tampering with poisons after the charge of murder, to have separated the cases, and gone on with the first charge alone. It was for the prisoner's Counsel to consider whether that was for his interest; and no objection was taken, and from the way my friend Mr. Moncrieff has managed his case, I have no doubt, that in the exercise of a proper discretion, he thought it most advantageous for the interests of the prisoner to allow all the charges to go to trial together, and to endeavour to throw discredit on the first and serious charge, by treating lightly the two minor charges. But on the other hand, one cannot disguise from one's-self, that it is a most serious fact in this case, that on two different occasions the prisoner sent for prussic acid, without the possibility of assigning a cause, except the morbid desire to see what were its effects. You must, undoubtedly, consider the evidence as to the charge of murder, in the first instance, and if that is inconclusive, then the subsequent use of prussic acid will assume a different aspect. But now that the whole case has been taken together, you cannot separate the use of prussic acid on the last occasion in Glasgow, from the fact that he bought prussic acid previously.

In this case there has been a great deal of theory, both of a medical nature, and as to what was the motive of the prisoner. Knowing, however, your obligation as an intelligent jury, to attend solely to the actual facts of the case, neither any theory as to the absence of motive, nor any medical theory whatever will affect your

conclusion on the facts proved. No doubt, if there is any reasonable doubt as to whether the facts are true, you will be inclined to give the full benefit of that to the prisoner. But if these facts are true, and you come to the conclusion that they are established by the evidence, your verdict must be guided by the facts proved, and not by any theory of the absence of, or the inability to discover a motive. The absence of motive, I own, I have always considered a very dangerous field for a man to enter upon. It is a rash thing to attempt to set a bound to man's malignity, or to suppose, that because your honest and innocent hearts cannot enter into the motive of one committing such a crime, guilt must be excluded. We know not the depths of the depravity and malignity of the human heart, and numbers of desperate criminals would escape if we are to test things in this way, and to lay aside evidence as to matters of fact from our inability to understand what led the man to do the deed.

With reference to the indictment, no explanation is needed of the first charge—it is Murder. In regard to the other charges, they are laid alternatively at common law, or under the Statute 10 Geo. IV. cap. 38. That Statute was passed from the prevalence in Scotland at one time of the crime of throwing vitriol upon, and otherwise injuring persons—those especially who would not join trades'-strikes. The crime of administering poison with intent to kill, is an offence equally heinous with murder, though not followed by death, which has been prevented solely by the intervention of Providence. It happens unfortunately—there is no disguising it, for experience has shewn it—that great crimes leading to the discussion which they must necessarily do, are often followed by the committal of the same offence on the part of others—and you will see how that comes out in a remarkable manner in this case. This is especially true with regard to cases of poisoning:—There is a strange morbid state of feeling created by the discussion of such cases. It arises from a kind of strange desire to possess that command over human life which the knowledge of such poison produces, and which sometimes leads, without one being able to detect the object, to the commission of similar crimes.

His Lordship then proceeded to read over his notes of the evidence very fully to the jury. The first two witnesses were to prove the first declaration; and in passing, his Lordship observed—I may say, that while in the ordinary case it is quite true that the declaration of the prisoner is of very little importance, it is difficult to apply that to the case of a person accused of such an offence as the present, and more particularly when he has not been apprehended on the instant, but has had time to reflect and arrange his plans.

His Lordship then explained the plan produced of Agnes Montgomery's house, pointing out the different places referred to in the course of the evidence, and in particular, the position of the witness Clarkson's house in regard to deceased's; observing, that a person seated at his fire-place could well see whoever came out of her door if his door were open. He referred to the witness, Mrs. Watson, as

a most intelligent witness, but before going into her account of the symptoms, his Lordship said, Let us take the clear uncontroverted evidence of Dr. Penny as to the symptoms of poisoning by prussic acid. In regard to Mrs. Watson's statement—'I found her sitting on the chair before the clock,' his Lordship said, You will see that was near Mrs. M'Donald's room, where Isobel Law was. In regard to her account of the thick slaver—'I dighted it away two or three times,' his Lordship said, That is of considerable importance in regard to the smell felt by Mrs. M'Donald. Her account of the breath as giving heavier lifts from the breast, was obviously the convulsive breathing spoken of by Dr. Penny. In reference to her account, 'The eyes were quite motionless, staring straight forward,' his Lordship observed, It was said we were not to take the symptoms as spoken to by a mere country woman. I thought that woman, Mrs. Watson, a most intelligent witness, and she expressed herself so that the Doctors understood her. In regard to her question to the Doctor, 'Do you think she has been taking anything?' his Lordship said,—It is very remarkable that this is the notion which first occurred to her. 'Oh! Aggie, Aggie! what's this? Have ye been taking anything? Doctor, do you think she has been taking anything?' It is quite plain the notion of natural disease was out of the question. The witness was evidently not satisfied with the Doctor, and the quiet way in which he took her sister's illness. In regard to her account of the Doctor trying to bleed deceased, but failing, saying she wouldn't bleed, the pulse was too weak, his Lordship said,—How that contrasts with his statement that her pulse continued between 70 and 80 down to her death, a strange want of recollection or observation. In regard to her account of the difference between prisoner and deceased, on account of some water thrown on him by her and Janet Dollar, his Lordship said,—It would be wrong to suppose that this goes to show that there was a deadly enmity on the part of the panel against the deceased, because of a little water spilt on him a month before. In regard to her statement, 'I saw one vial—marked Creosote, Poison,' his Lordship said, Now that bottle was given by John Ferguson to her, and he got it back in the same state as he had given it to her. It is obvious she could not be poisoned by that, and it is quite certain that a person accustomed to use it could not make a mistake. In regard to her statement, 'We searched every place through the house for the key, and could not find it,' his Lordship said, I need not say to you, that if she snibbed the door on the inside, the key would have been there. It was afterwards found, and you will have to say by whom it was placed where it was got. But it is a fact which your common sense will teach you, that the person who went out with the key must have locked the door. In regard to the prisoner's conduct, in taking the little child out with him, his Lordship observed,—The prisoner took the little child out with him to gather flowers in the garden, after he admitted to a witness that he had seen deceased taken ill, and you may suppose that it

may have been to take off the impression of what she may have seen. In regard to Mrs. Watson's account of the girl's intelligence, &c., his Lordship said,—This account is very satisfactory, and if she had said anything to her mother at the time of her aunt's death, I should have admitted her statement at once.

In regard to the evidence of James Watson, as to finding the pieces of broken glass on the walk, his Lordship observed,—Now it is very easy to ridicule that fact ; but I am afraid you must give it more attention ; and if you are satisfied that he had the phial, and has not accounted for it, and if you shall be satisfied that the prisoner was in the room when she was taken ill, and in possession of the prussic acid, then the circumstance of his having been discovered in the place where the broken glass was found, will deserve your attention. In regard to the prisoner's statement to Watson, that he thought he was the last person in her room, as it was very soon after that he was sent for the doctor, and that, when he left, she was breaking sticks to kindle the fire, his Lordship observed,—A clear admission this, that he was in the room, which he has denied in his declaration, and a positive statement as to what she was doing. In regard to Watson's account of the conversation about prussic acid, his Lordship said,—Well then ! the account he gets of it is such as to lead to the exclamation on his part, ' Surely it must be strong stuff.' In regard to the appearances of agitation, alleged to have been exhibited by the prisoner, his Lordship said,—Now certainly, the notion of people, that a man is agitated or looks strange, when it does not give rise to suspicion and lead to detection, is not worth much ; but here, certainly, observations were made upon it at the time by the man's own friends. Mr. Moncrieff appeared to think it an extraordinary thing that he should not have been agitated at tea that night before he went up to commit the crime. But there is nothing in the history of this case to lead us to suppose him a man of great sensibility, and there was no reason why he should quail before the crime was committed. I should think it more likely for him to do so after than before. In regard to Mrs. Montgomery's statement, that she had seen him with the little girl in his arms pass by the entry shortly before she heard the moans, his Lordship observed,—If he was in the room that afternoon, it will be for you to say whether this illness had begun before he left the room, and on this point you will consider the evidence of Clarkson and Bell Law, both of whom heard the fall before the person left the house and locked the door. If that illness arose from natural disease, you will consider how any man could possibly leave a woman in such a state, and lock the door without calling for assistance. But if he had administered poison to her with intent to kill, I can well understand how he should lock the door, for assistance would then be the longer of reaching her. In regard to the evidence of the little girls, Janet M'Gregor and Catherine Cochran, his Lordship observed,—There, gentlemen, you will see, is distinct and clear evidence that the prisoner was in the room, and M'Gregor says the

little girl Janet was with him. He was there when the beer was brought, and of that beer no large quantity was left. You were told by the medical men examined, and it might be imagined even without medical evidence, that beer was a very good medium for the administration of prussic acid. Nothing can be drunk faster than a glass of beer, and a great deal might thus be swallowed of some other substance mixed with it before it was discovered. And where was the phial of prussic acid? Has the prisoner produced it? What has he done with it? *He has used it*, for he gets more; and the beer has been drunk with the symptoms you have heard described. The question put by Janet Dollar to the prisoner, whether he had got any of the beer, was a very pointed one, being evidently put because she thought the beer might be looked on as the cause of the illness; and in his answer, that he was going out at the back door as the little girls came in at the front, you have the second of the falsehoods that he tells. We next come to a witness of the greatest possible importance, David Clarkson: he is a mole-catcher, and you know these people are accustomed to very minute observation. A good deal has been said as to no suspicion being taken up by him at the time, when he heard the fall on the floor. It is no wonder that he did not then suspect what the Crown now say did occur. There, gentlemen, you have a fall or thresh on the floor before the moans began, and before the panel came out, that's the significant fact in this evidence. Now, that fall takes place, by the evidence of two witnesses, *before the prisoner goes out*. One might well understand how, if he saw the fall had frightened little Janet, he should raise Agnes up, and seat her so as to quiet the little girl, and make her think there was nothing wrong. But that she could not raise herself up, is abundantly clear from the medical evidence. In regard to Mrs. M'Donald's evidence, as to sending the panel for the doctor, his Lordship said,—He indicated no surprise that the girl he had left breaking sticks should now be dying! In regard to her description of the symptoms, his Lordship observed,—Now, it is said they don't mention the glistening eye. I am not surprised, intelligent as these women are, that they do not notice it, and, as for Dr. Scott not seeing it, you will afterwards consider what that gentleman's powers of observation are. In regard to her description of the smell, he said,—Now, gentlemen, this poor woman knew no more of the smell of prussic acid affecting the nostrils and back of the throat than many of you would do, and yet she says it so affected her, and such is proved to be the effect of prussic acid. And that it was no fancy, thought of after the prisoner was apprehended, is proved by her mentioning it that very night to Mrs. Montgomery. In regard to the finding of the key at the root of the tree, as spoken to by James Kean, his Lordship observed,—And that that was Agnes Montgomery's key is proved by its fitting the lock, and the evidence of several witnesses who know it to be hers. And who put it there? Was it the man who had, the afternoon of the death, stooped at the tree? Who else had a motive to hide the key? If

we are told that there was no suspicion at the time, it is no wonder. They mention the fact, and, at the place where they indicate, it is found, and that it had lain there for some time is plain, for there was rust both on it and on the ground. On the prisoner's denial, in his first declaration, that he was in deceased's house on the Sunday afternoon, his Lordship observed,—The case turns upon whether he was in the house at the time : at the time the fact was so well known, that he did not venture to deny it, he was the last person who saw her ; but now, when he has had time to consider it, on the 1st October, he does deny it ! In regard to Ferguson's evidence as to the purchase of the poison, his Lordship observed,—He knew by this time the nature of the poison, rapid and active. He knew of no use to which it is to be applied except, perhaps, photography, and he is not a photographer. Then, he is so desirous of concealment, that he excites the boy's curiosity. Being so anxious to conceal that he is getting so dangerous a poison, you will consider whether he uses it the day he gets it. As for the prisoner rubbing his hair with the cork of the prussic acid, you will consider whether that was not just a pretext to make the boy think that was the purpose for which he got it. In regard to the conduct of Stirling in selling the prussic acid, his Lordship said,—I must say I do not recollect a more singular instance of carelessness on the part of a druggist's assistant, than the conduct of this witness in selling so dangerous a poison to the carrier's boy, without the knowledge of his master, and when he could get no proper account of the person who wanted it. I cannot retract what I said to himself, that he ought to have the death of that girl on his mind all his life.

Passing on to the evidence in regard to the second and third charges, his Lordship said, that the evidence of Jackson, who sold whisky to the panel in a pint-bottle, was corroborated by the Masons, for he appears there with a pint-bottle, and prussic acid in it. In regard to Mrs. Mason's description of the symptoms, his Lordship said—This woman knew nothing about the effects of prussic acid. Fancy, on her part, it could not be. In regard to her statement, that she was worst on the Saturday night, his Lordship observed,—It was said it was strange and very unusual, that the worst should be so late. But you remember what Dr. Penny said—that though the proper effects of prussic acid were very soon got rid of, yet there might be derangement of the stomach consequent upon it.

His Lordship then went over the medical evidence. It is important to notice the statement in the report of the *post mortem* appearances, that there was no evidence that death had resulted from external violence, protracted disease, or structural change in any of the important organs. The evidence of Dr. Maclagan, and of the Drs. M'Kinlay differed in some respects, no doubt, the one finding prussic acid in the spleen, and the others in the stomach. But that is accounted for by the one having the best part of the spleen, and the other of the stomach. And the important fact for your consideration is, that prussic acid was found by both in the body of

deceased. Then, as to that theory of Orfila's, of the possible generation of prussic acid in decomposition—you would find this acid in the body, not only in cases of poisoning, but in many others if it were true. The only way you can refute a theory, is by discovering no traces of it in many subjects. Bodies in all stages of decomposition have been examined, and in not one has such a thing been discovered. The evidence of Drs. Maclagan and M'Kinlay, who have examined hundreds of stomachs, may be considered conclusive on this point. When the passage was read, it struck even my mind with surprise, and I put to the medical gentlemen the question, Is not the sugar in diabetes just an excessive secretion, under disease, of the sugar which is naturally in the human body? The answer, Certainly. Then what analogy, I asked, can exist between that and the formation of an entirely new substance after death, by the supposed combination of the various elements from which that substance may be formed? Plainly none. Then further, what process in the course of the decomposition of the body, and in what manner are the elements to be brought together and combined, so as to generate prussic acid? Orfila has not even a supposition as to the process. But still more to show the extreme hazard of such speculations, it was not known in Orfila's time, at least before the date of the work referred to, that sugar existed as a constituent and necessary element of the human body. So that he thought it was a new formation in diabetes, instead of being merely an excessive secretion of that which existed already. I have alluded at length to this theory, as I trust that it may never be again brought forward, in the hope to perplex and mislead a Jury, and to try to take off the effect of the clear and decided proof of the existence of poison in the body, and of the possession and use of poison by the person accused.

On the whole evidence, however, the questions for you, gentlemen, to decide, are,—Was the girl quite well up to the time when the panel met with her that day? Did she destroy herself? If prussic acid was clearly proved to be the cause of death, either she must have taken it herself, or some one must have given it to her. The former supposition is, I presume, a theory which you cannot receive. You come, then, to a point of the greatest importance in this case. Who had the opportunity and the means of administering the poison? That anybody should be seen administering the poison is a thing which can hardly be expected, and I believe, has only occurred twice. Then this prussic acid is not a thing lying about at the hand of everybody. It can only be got from druggists—it is a peculiar thing, marked 'poison' when sold, and therefore, we naturally inquire who had it, and who had the opportunity of administering it? Now, the only person who had it was the prisoner; and it was he also who was last with the girl, and who had the opportunity of giving it to her. If you are satisfied he was in that room with her, as he said to one witness, after she was taken ill, what is the conclusion? With the rapid effects of it she could not

have taken it before he went in, because she would have been insensible, unconscious, and powerless before that time. Then you come to a part of the evidence I cannot think circumstantial—I think it is *direct* evidence—the testimony of Clarkson, who heard the rumble on the floor, and saw the prisoner come out carrying the little girl. He thought, no doubt, at the time, and who can wonder at it, that it was some romping, and that he had thrown her down on the ground. But that was while the prisoner was in the room, and it was the commencement of the symptoms of prussic acid. Isobel Law hears it too. She does not see the prisoner go out, but—extraordinary confirmation of Clarkson's evidence—she was sure the person who went out locked the door, and she thought it was Aggie herself. She hears the warsling and pulling of feet along the floor, and what the Crown puts to you is—whether after she fell she was raised? That that must have been done by the prisoner is quite clear, if she fell from taking prussic acid. What has become of the prussic acid bought by the prisoner? Has he told you? Has he given any account of it? He denies he bought it. That, of course, is fruitless now, and his counsel has not denied the purchase. For what purpose was it bought? Where is the phial? What has become of it? On the 23d he sends for more—a strong proof that he had used the first. Then you have the fact, if you consider it proved, that prussic acid was found in the stomach. No doubt it is said, what could be the motive to this? Neither you nor I can penetrate into the human heart, and we all know that many most improbable crimes are nevertheless proved to demonstration.

It is most extraordinary that this man, having got a second quantity of prussic acid, should be found tampering with the health and life of other persons by administering it to the Masons—for that the poison was in that pint bottle I hold to be proved beyond the possibility of doubt. The second phial was not left in the house. Of course it could easily be thrown away on the road on a dark night. I cannot well state the purpose he had in view. It may have been just the result of that strange morbid feeling of desire to be possessed of a power over the life of others, which has been known to influence persons convicted of poisoning. Your conclusion as to whether the prisoner administered the poison, must not be affected by your inability to say why he did it. If you come to the conclusion, which, as Dr. Penny remarked, you are inevitably driven to—that prussic acid was administered to the girl who died, I am afraid you will not be able to escape the painful result of the verdict you will have to come to, because you cannot find a motive. There is nothing in the previous history of the prisoner to render the commission of this crime highly improbable; but what you have to deal with is the facts of the case. It is matter of great satisfaction to me, in a case of this sort, that it has been investigated and prepared with such skill and diligence, and that the chain of evidence brought forward has been so complete, notwithstanding information was not given for a long time after the occurrence. I leave the case, Gen-

lemen, in your hands, with the utmost confidence, believing that whatever result you may come to will be the nearest approximation to truth which can be arrived at, and perfectly satisfactory to the ends of justice.

The Lord Justice-Clerk having concluded his charge, the Jury retired into an adjoining room. In twenty minutes, the Jury having returned into Court, and all answered to their names, gave in the following verdict :—

The Jury unanimously find the Panel guilty of Murder as libelled.

The Advocate-Depute moved for the sentence of the law.

The Lord Justice-Clerk proceeded to pronounce sentence as follows :—

John Thomson—on evidence which has given satisfaction to the minds of the Jury, and which has also impressed my mind very strongly, you have been found guilty of a very barbarous and very cruel murder, committed under circumstances of great aggravation, and showing a hardness of heart that I scarcely could have conceived. I fear, from what we know of your previous history, that you gave no serious thought to the possible awful consequences of your crime ; but now that you are brought to the very foot of the scaffold, where you must terminate your life in a very few days, I trust you will look forward to that which follows—that you will consider the fearful consequences of meeting your Great Judge with an impenitent heart—that you will, with deep contrition, lament over your past offences, and for the guilt of this murder—that you will forthwith, this very night, on your knees, implore pardon through the merits of our Great Redeemer, and ask that the grace of God may be vouchsafed to turn your heart from its hardened stony state to a heart of contrition and deep penitence. Do not trifle with the short time left you. Do not for one moment delay the duty which is so imminent and urgent upon you. You will find most cordial and kind and persuasive assistance from the ministers of the denomination of religion to which you belong, if you are connected with any. You will be taught through what means alone you can hope to obtain the mercy of Almighty God ; and, I trust, that, by their direction, you will be led, even this very night, humbly to implore his forgiveness, and pray for mercy through the mediation of our blessed Redeemer. Indulge in no vain thoughts that your life may be spared. Even if it were, the remainder of your life ought only to be spent in endeavouring to obtain that forgiveness. But your time is short, the necessity of preparation is deep ; and, I trust, now that you see the consequences of your guilt, you will be brought to implore forgiveness in the way I have mentioned.

SENTENCE.

‘ In respect of the foregoing verdict of Assize, the Lord Justice-Clerk decerns and adjudges the said John Thomson *alias* Peter Walker, to be taken from the bar to the prison of Glasgow, and from thence to be forthwith transmitted under a sure guard, until he is brought to, and incarcerated in the prison of Paisley, therein to be detained and fed on bread and water only, until Thursday the 14th day of January next, and upon that day, between the hours of eight and ten o’clock forenoon, to be taken from the said prison to the common place of execution of the burgh of Paisley, or to such other place as the magistrates of Paisley shall appoint as a place of execution, and then and there, by the hands of the common executioner, to be hanged by the neck upon a gibbet until he be dead, and his body thereafter to be buried within the precincts of the said prison of Paisley, and ordains his whole moveable goods and gear to be escheat and inbrought to Her Majesty’s use.—Which is pronounced for doom.’

(Signed) ‘ J. HOPE.’

‘ And may God Almighty have mercy on your soul.’





