

Remarks on the trial of Robert Reid, for the murder of his wife : before the High Court of Justiciary, at Edinburgh, on the 29th of June 1835 / by John Fletcher.

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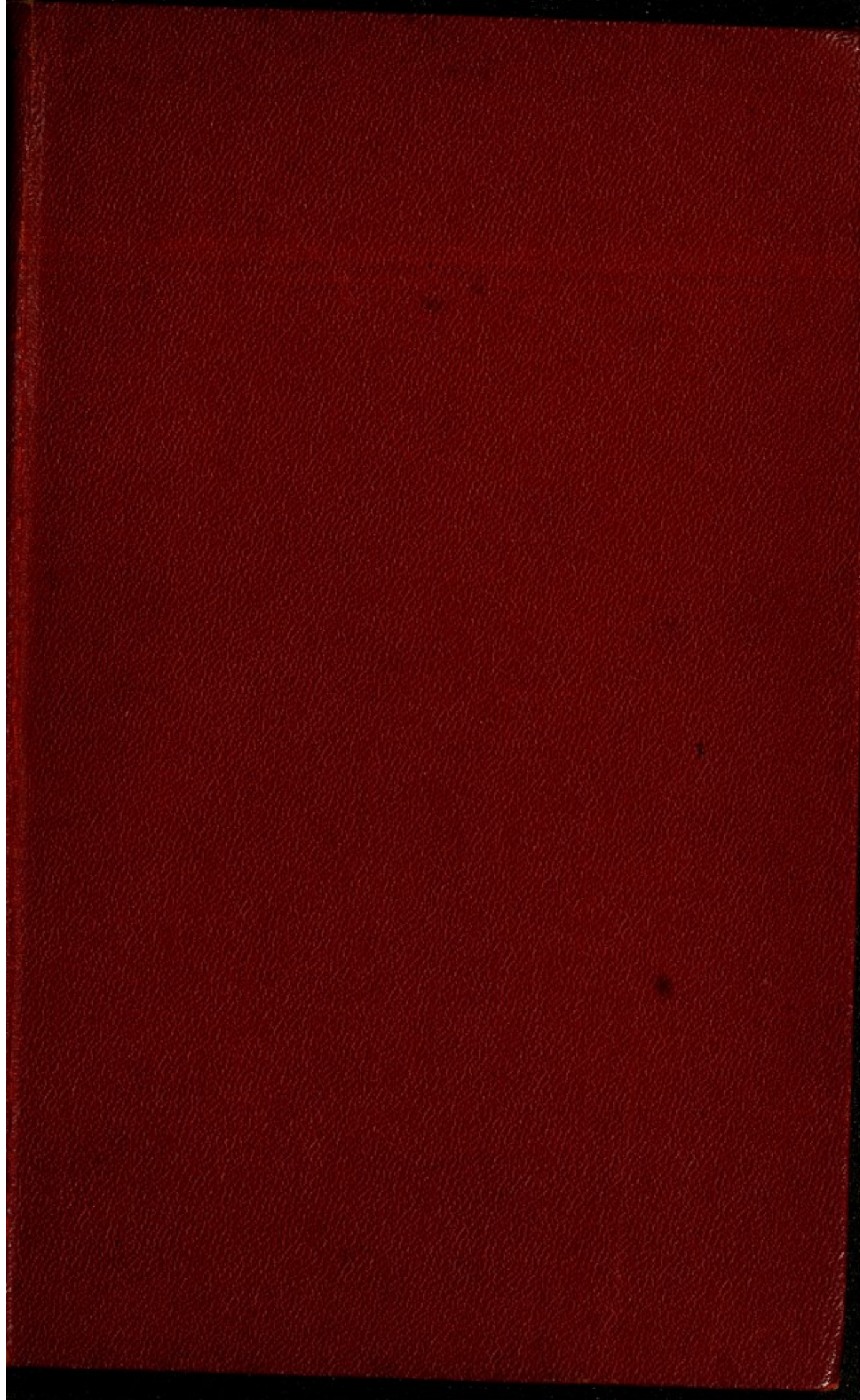
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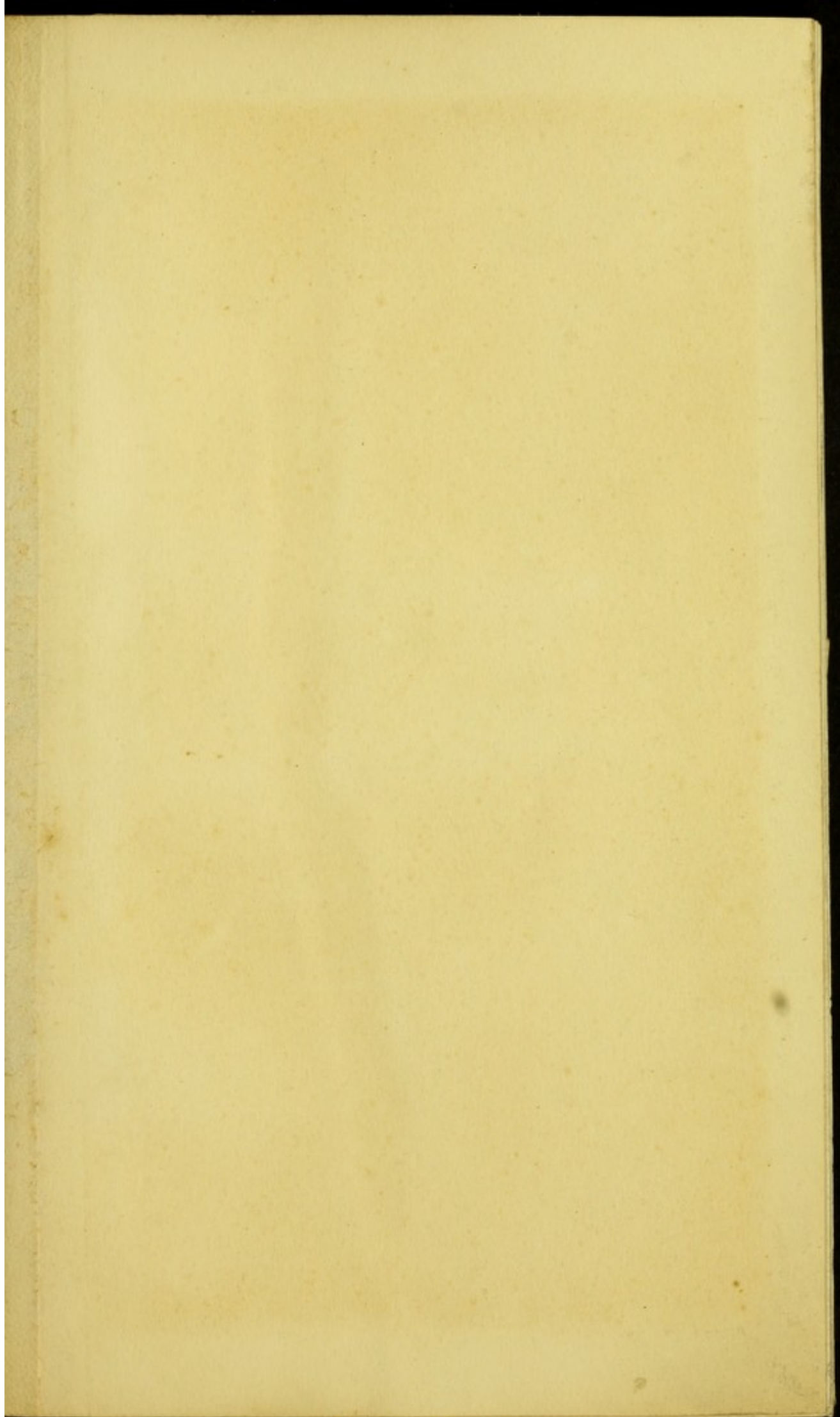
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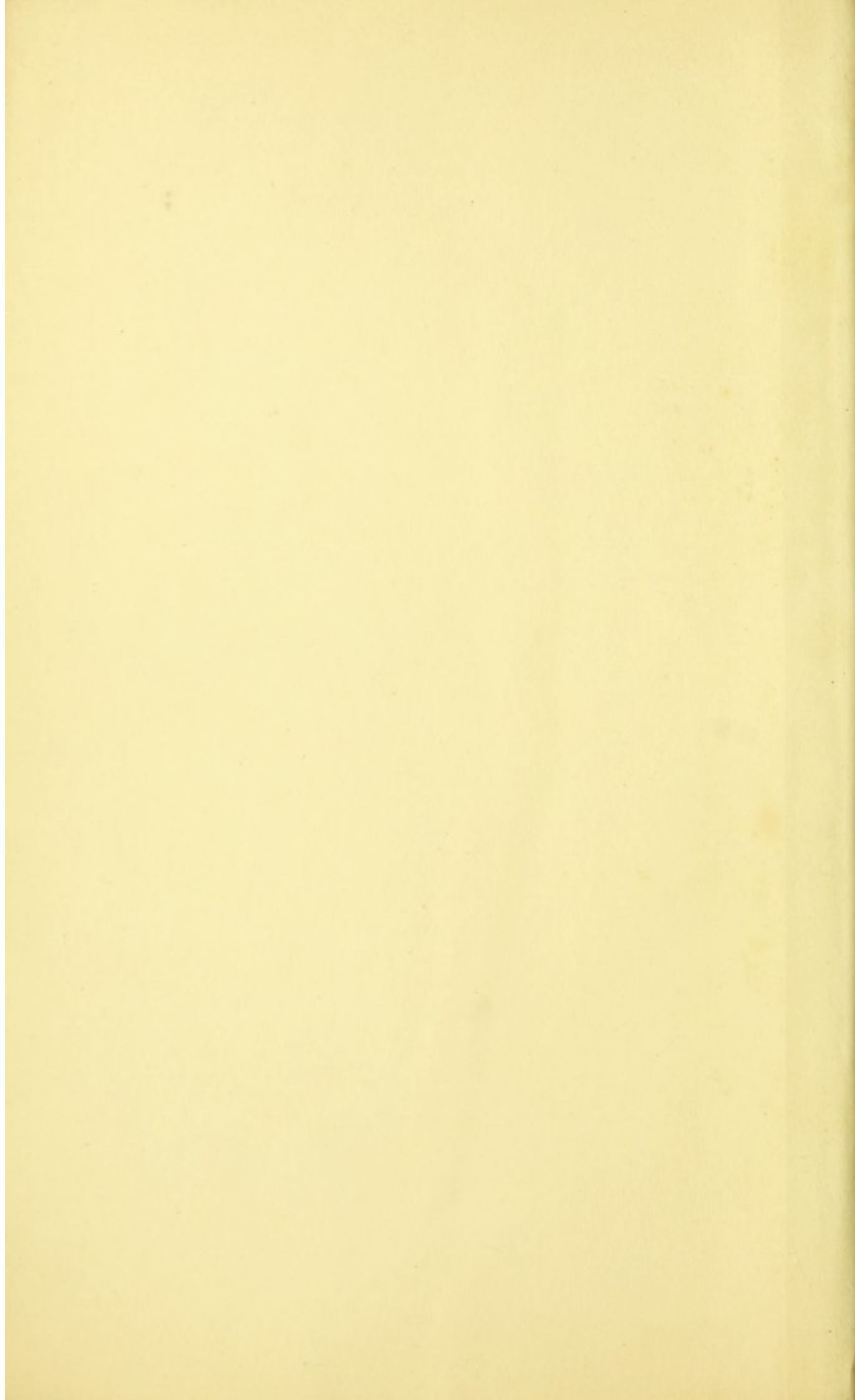


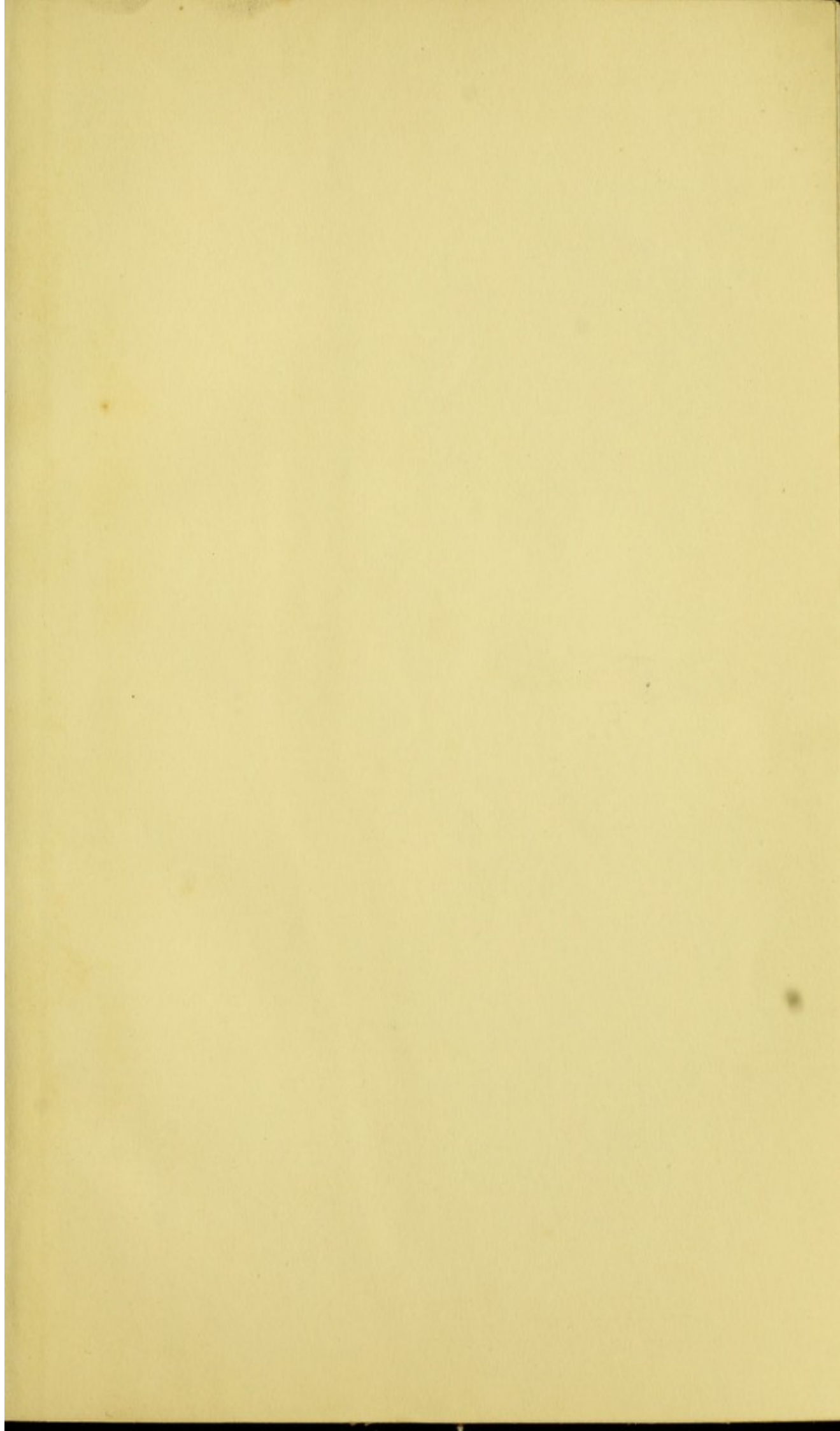
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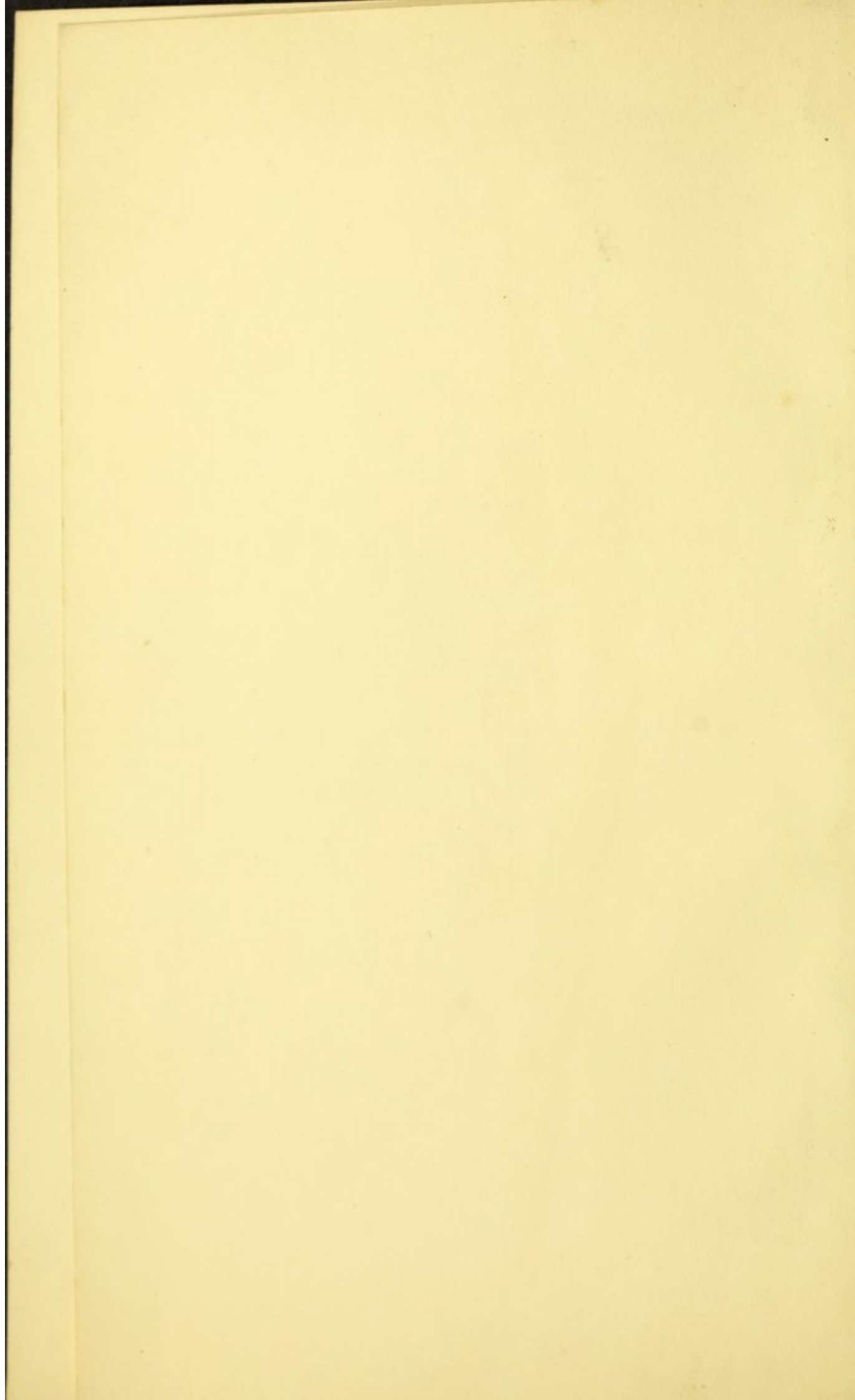


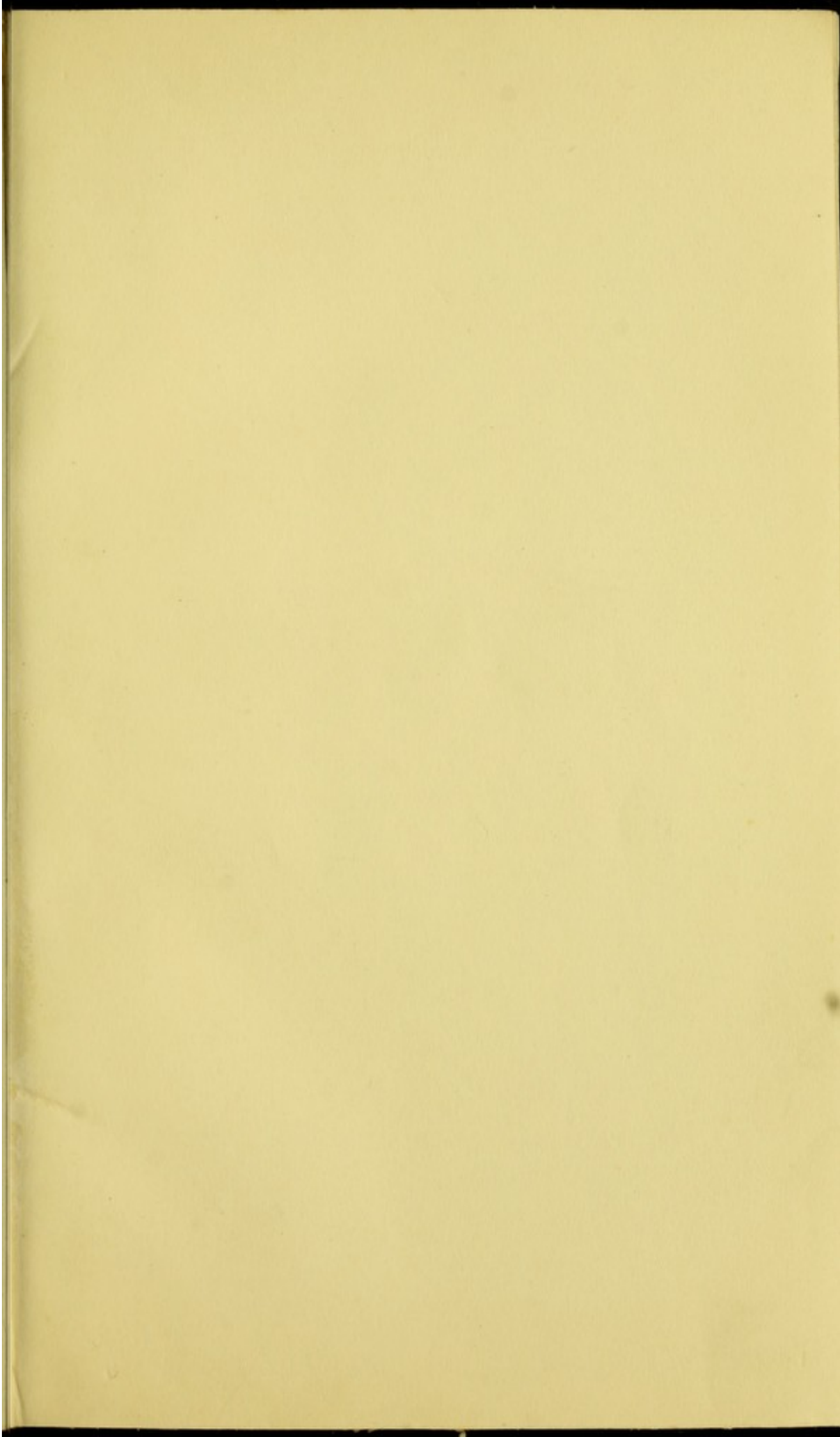
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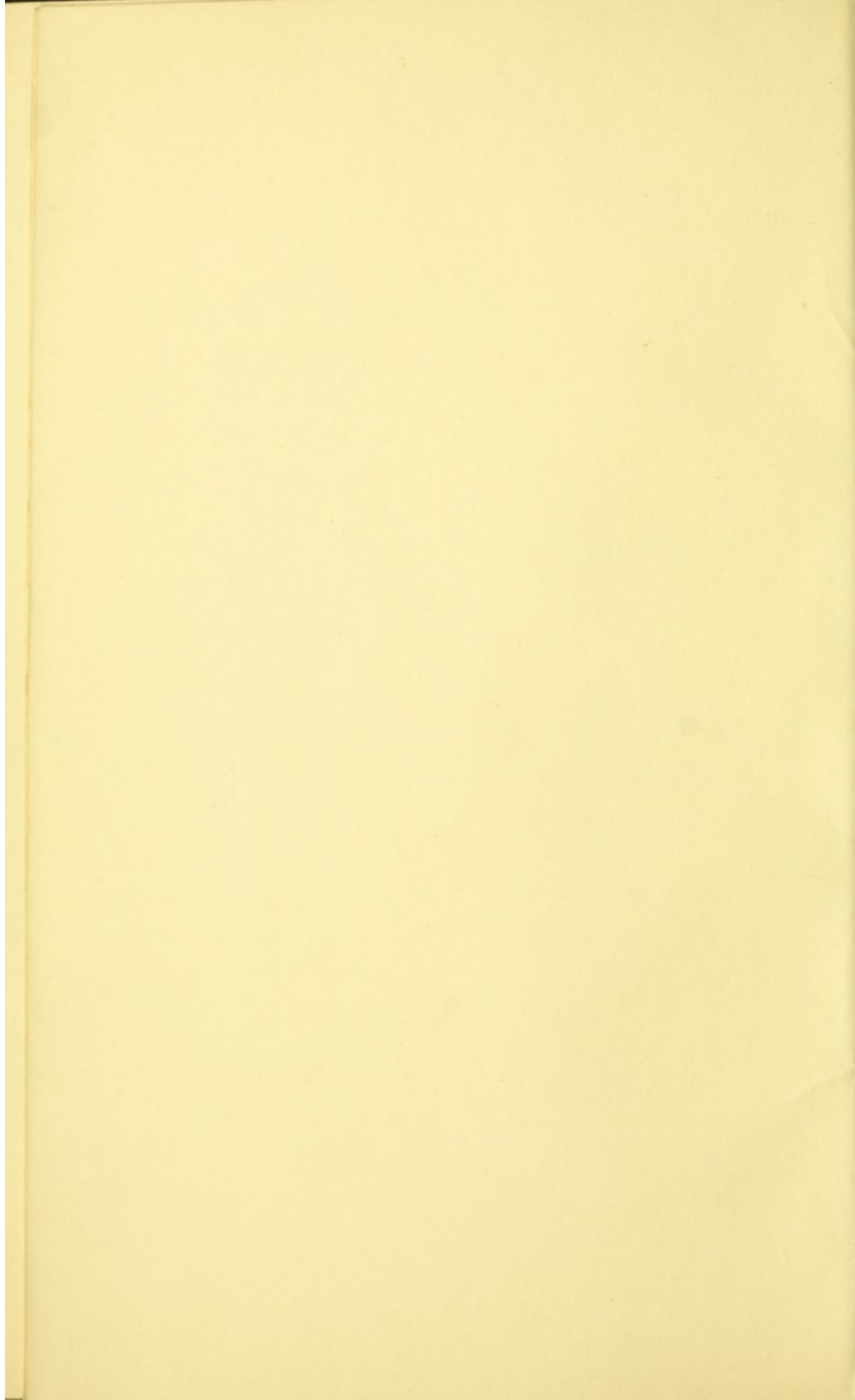


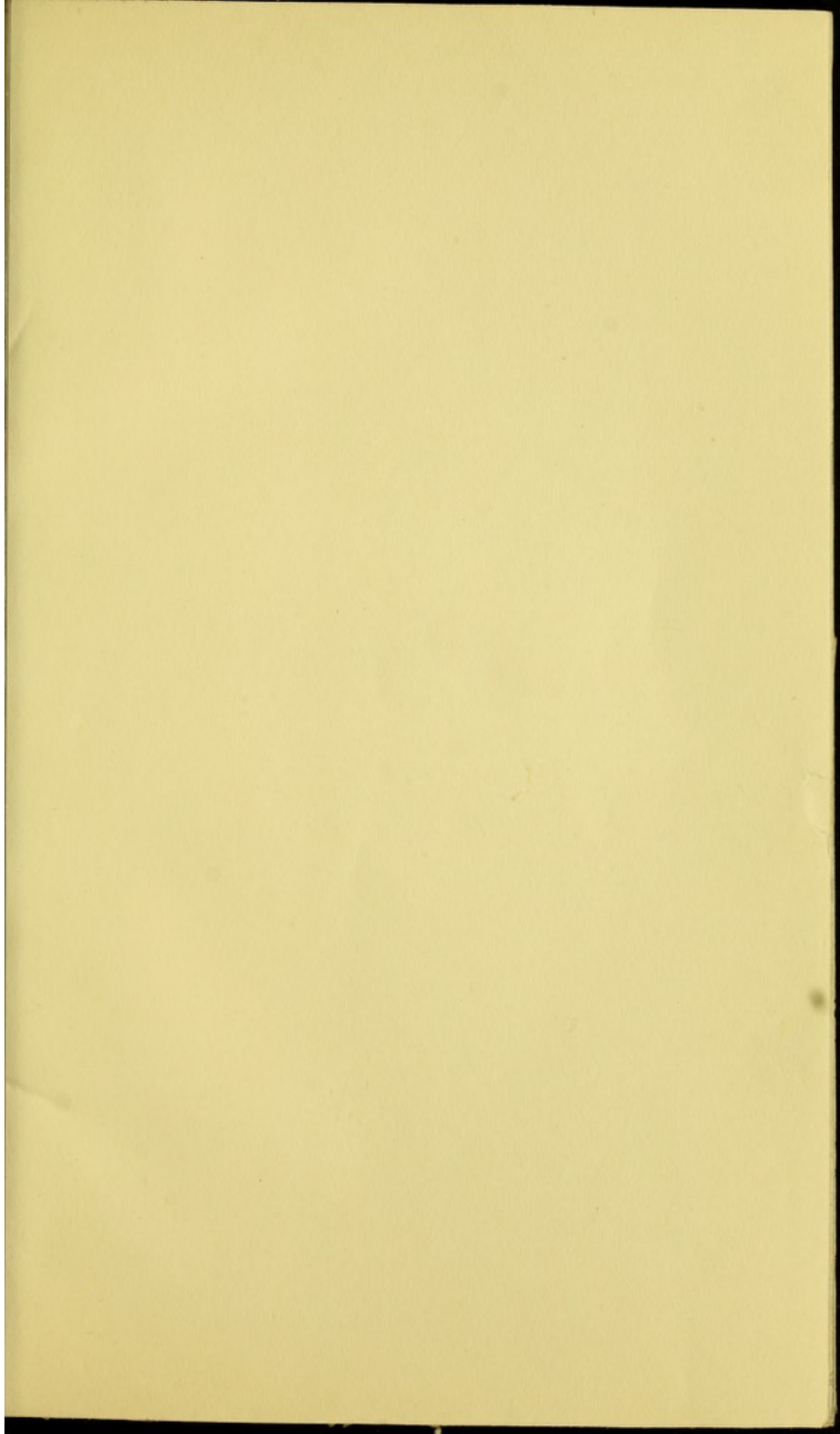














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REMARKS

ON THE

TRIAL OF ROBERT REID,

FOR THE MURDER OF HIS WIFE,

BEFORE THE HIGH COURT OF JUSTICIARY,

AT EDINBURGH,

On the 29th of June 1835.

BY

JOHN FLETCHER M. D. F. R. C. S. E.

LECTURER ON PHYSIOLOGY, AND ON MEDICAL JURISPRUDENCE.

Audi alteram partem.

EDINBURGH :

JOHN CARFRAE & SON, 62, SOUTH BRIDGE STREET.

1835.

THE

TRIAL OF ROBERT BURNS



James Walker, Printer,
6, James's Court, Lawmarket,
Edinburgh.

REMARKS, &c.

HAVING ascertained that a strong impression exists in the public mind that the acquittal of Robert Reid of the late charge of murder was undeserved, and being given to understand further that certain points in the medical evidence in his favour may soon be made the subject of express animadversion, I think proper, having acted as Medical Adviser to his Counsel, to state, in few words, my views of the general merits of the case, before the subject becomes confused, as it is probably destined to be, by the agitation of certain isolated and abstract points connected with it, and incumbered with the desultory *verbiage* almost inseparable from such discussions. As my name does not appear upon the face of the proceedings at his Trial, I might very well have declined this task: but, engaged as I was in the business, I cannot help feeling desirous of removing the prejudice which I find so generally entertained against Reid; a prejudice founded, I am persuaded, upon the incompetency of the public in general—owing to the very meagre account of the exculpatory evidence contained in the daily papers—fully to appreciate some of the chief circumstances which tell in his favour, while all are abundantly capable—from the compara-

tively full account given of the evidence on the other side—of estimating every point which has an opposite tendency. It is my intention then to present, in the following pages, a collective view of the general merits of the case in question, as they appear upon the face of the Trial, leaving it with the reader afterwards to determine whether I had any grounds for interesting myself, as I did, in this man's behalf, or whether he should have been left, without a suggestion on his side, to that fate which otherwise might have awaited him. I need hardly say that I am not responsible for any part of the medical evidence given either against Reid or in his favour; but I will not shrink from my share of any imputation which may be cast upon the latter, where I feel satisfied that it was well founded. I have no hesitation in declaring thus *in limine* that, while I regard the medical evidence for the Crown, in this case, as in most points exceptionable, and in many disgraceful in the extreme, I look upon that for the accused as in general highly satisfactory; and, without taking upon myself to father to the letter every statement made by the Medical Witnesses on the side of mercy, I entirely coincide in the general bearings of these statements, and in the conclusions to which they tend*. As the following remarks are intended

* On some occasions, when the medical opinions given in a case of this description have been more or less contradictory, it has been objected afterwards by the one party that the conduct of the other was uncourteous and uncandid, in their not having previously communicated with their professional brethren, and stated to them the grounds on which they intended to oppose them; but I beg to observe that no reproach of this kind can attach to me in this in-

for the non-medical, as well as the medical public, I shall make them as simple and concise as possible,

stance. On the very first day of my engaging in this affair I waited personally on the Professor of Surgery in the University, the colleague of two of the principal Witnesses for the Crown, stating my doubts, and requesting his opinion on some of the chief points of the case; and it was by his friendly advice that I acted as Medical Counsel in this business, instead of allowing myself to be cited as a Witness. I afterwards prepared a long list of questions, calculated to elicit the chief facts which I was desirous of making out at the Trial; and I have reason to believe that these gentlemen were fully precognosed, long before the Trial took place, on the substance of these questions, by the Counsel for the Prisoner. In a personal interview also with Dr FORBES, another of the Medical Witnesses for the Crown, the day before that on which the Trial was first expected to come on, (Monday, 16th March) I conversed with him freely on the various points of medical evidence afterwards brought out at the Trial, and gave him a card of introduction to an accomplished anatomist in this city, who was so obliging as to accompany him on the Sunday—as the time was pressing—to his Museum, and to point out to him, on wet preparations, the anatomy of the parts on which he was to give evidence. Had the Trial taken place at this time no Medical Witnesses whatever for the Prisoner would have appeared, his Counsel being prepared to rely for the defence entirely on the cross-examination of the Crown Witnesses: but, in the long interval which elapsed before the actual coming on of the Trial, it was considered expedient by the Counsel and Agent for the Prisoner to have, if possible, some positive medical evidence in exculpation; and it was in consequence of the answers which they received to *the identical series of questions the substance of which was discussed with the Crown Witnesses* from the medical gentlemen who appeared on the opposite side, that the latter were cited. Nobody therefore can complain of having been taken by surprise in this business. All must have been aware from the first, not only of my being engaged, but also of the precise line of defence which was to be set up; and if any further communication were desirable between the parties, it was surely as much the business of the Crown Witnesses as that of those who entertained a different opinion to seek such communication, which certainly would not have been refused.

avoiding, as far as I can, all technicalities and all abstruse medical discussions, and confining myself strictly to the naked case before us, any allusions to other analogous cases—which might very easily have been made—being calculated, with people in general, rather to obscure than to illustrate the subject immediately in hand.

It would have been certainly a great advantage had an authenticated account of the Trial preceded the comments which I am about to make. Such an account will in all probability soon appear: but in the meantime, I do not despair of being able to make the following analysis of the evidence perfectly intelligible to those who have seen the accounts of the Trial contained in the public papers; while, for the sake of those who have not, I have thought it expedient to subjoin an extract from the indictment, as given by these papers, and a list of those Witnesses to whose statements I shall have occasion to refer, both for the Crown and for the Prisoner, in the order in which they severally gave their evidence*. With respect to the *ipsissima verba* of

* “ On Monday (29th June 1835) the continued diet was called against Robert Reid, tailor at Pathhead, accused of the murder of Elizabeth Arnot or Reid, his wife. The indictment set forth that he “ did, on the 19th or 20th of September 1834, wickedly and feloniously attack and assault the said Elizabeth Arnot or Reid, and did, with an axe, or with some other instrument to the Prosecutor unknown, strike her one or more severe blows upon or near to her neck, and did thereby, or by some other violent means to the Prosecutor unknown, fracture and dislocate one or more of the vertebræ in or near the neck; in consequence of all which, or part thereof, she immediately or soon thereafter died; or did, by strangling or suffocating her in some manner to the Prosecutor unknown, or by some other means to the Prosecutor unknown, then and there

the Witnesses to which I refer, they are copied from verbatim notes of the proceedings taken during the Trial, and strictly corresponding, in all important points, with my own remembrance of the evidence given.

wickedly and feloniously put her to death ; and the said Elizabeth Arnot or Reid was thus murdered." To all of which the prisoner pleaded not guilty."

*Witnesses for the Crown,
referred to in these remarks.*

Isobel Young, of Pathhead.
Mrs Tod, Do.
Mrs Chisholm, Do.
Cherry Manners, Do.
Mrs Ness, Do.
John Arnot, Do.
Mrs Fife, (wife of John Fife)
Do.
John Piggot, Do.
Thomas Grieve, of St Clairtown.
Charles Walker, Baron Bailie of
Pathhead.
C. C. Williams, Surgeon, of Dy-
sart.
Dr Forbes, of Dysart.
Professor Christison, of Edin-
burgh.
Professor Traill, of Edinburgh.

COUNSEL.

The Solicitor-General, (Cun-
ninghame).
John Shaw Stewart, and
George Napier, Esquires, Ad-
vocates-Depute.

AGENT.

David Cleghorn, Esq. W. S.

Witnesses for the Prisoner.

* John Fife, of Pathhead.
* Mrs Thomson, Do.
* Mrs Crichton, Do.
* Mrs Lenny, Do.
* William Duncan, Do.
Mrs Finlay or Smith, of Kirk-
caldy.
Henry Russell, of Pathhead.
Mrs Gray or Smith, Jailor of
Kirkcaldy.
Mrs Wilson, of Pathhead.
Michael Slater, Sheriff-officer of
Kirkcaldy.
James Fife, of Pathhead.
Dr J. A. Robertson, of Edin.
Professor Lizars, of Edinburgh.
Dr Mackintosh, of Edinburgh.

[*Those marked * were in the
list of Witnesses for the Crown.*]

COUNSEL.

James Anderson, and
G. H. Pattison, Esquires, Ad-
vocates.

AGENT.

William Duncan, Esq. W. S.

The presumption of the guilt of the Prisoner in this case appears to have rested principally upon the following circumstances, medical and moral, from the former of which the Crime, and from the latter the Criminal were inferred. To the *Medical circumstances* belong 1. The posture in which the corpse of the reputedly murdered woman was found. 2. The discoloration of the back of the neck and spine. 3. The alleged presence of coagulated blood in the discoloured parts. 4. The reputed rupture of one of the external jugular veins. 5. The fracture and luxation of one of the vertebræ of the neck. And 6. The discovery in the apartment of an instrument competent to inflict these supposed injuries. To the *Moral circumstances* belong 7. The alleged bad terms on which the Prisoner lived with his wife, and his occasional threats of doing her some injury. 8. Her frequent complaints of his bad usage of her in general, and in particular her exclamation in the middle of the night preceding the day of the supposed murder. 9. The alleged agitation of the Prisoner when taxed with the murder, his ambiguous expressions when asked of what complaint his wife had died, and his subsequent declaration of satisfaction at being released from her. 10. His denial of having been at home at two o'clock on the day of the supposed murder. 11. His haste to procure a coffin for the corpse. And 12. His alleged confession of the murder.

Never was there a case on which, to all appearance, a stronger, a more consistent or a more unbroken chain of circumstances, calculated to produce in every mind a conviction of guilt, was brought to bear upon

an unfortunate individual ; and so impossible did it in fact appear to me, at the first view of the case, as presented to me by the indefatigable Agent for the Prisoner Mr Duncan, to find a loop to hang a doubt on, that I was tempted to decline engaging in it at all. A closer inspection of the matter however tended very materially to alter my opinion ; and let the reader only suspend his judgment of the whole of this chain till each of the links has been examined, and he will probably find, as I did, that there never was a case in which an apparently strong, consistent and continuous series of circumstantial evidence of guilt was in fact more feeble, more incongruous or more interrupted. On the other hand, in going attentively through the evidence purporting to substantiate the presumption of guilt — to say nothing of that the declared object of which was to lead to a different conclusion — so many considerations at every step present themselves, adapted, not only to stagger our confidence in our first impression, but to suggest and inculcate an opposite belief, that we find ourselves gradually becoming converts to the latter ; and if we do not at last confidently say that the woman died a natural death, we are at least disposed to express great doubts that she was murdered. I shall in the first place speak of the several circumstances above enumerated as favouring the presumption of the guilt of the Prisoner, and of the objections to which each is amenable, as either not established as a fact, or not warranting this inference ; and afterwards state, in a summary manner, a few of the principal circumstances from which an opposite conclusion may be deduced.

And first of those circumstances of the case which involve principally *Medical facts and opinions*, and which were presumed to substantiate the *Corpus Delicti*, or perpetration of the Crime.

1. The posture in which the corpse of Mrs Reid was found at half past two o'clock, on Saturday, the 20th September 1834, the day of the supposed murder, was described by the Witnesses ISOBEL YOUNG, Mrs CHISHOLM, CHERRY MANNERS and Mrs NESS, to have been that of sitting on the floor by the side of the bed, with a portion of the bed-clothes round the lower part of the body, the face turned towards the bed, the head either inclined a little backwards, (CHISHOLM) or backwards and to one side, (MANNERS) or held erect, (NESS) the left arm either resting on a chair, (YOUNG) or hanging down by her side, with the back of the hand on the ground, (CHISHOLM) the right resting with the elbow on the bed, and maintained in the upright position without any further support, "as if she had been going to put it to her face," (MANNERS) and the legs crossed under the trunk, the left being less protruded than the right. This posture was presumed to be such as she could not of herself have assumed; and we find accordingly that it was the impression of Mrs CHISHOLM and CHERRY MANNERS that she had been placed in this posture by another person. But conceding that "the only way in which this posture can be accounted for," as stated by PROFESSOR CHRISTISON, "is the presumption that it had been changed," what, it may be asked, could be more natural than for Reid, on returning to his home, as he did at two o'clock, and finding his wife stretched per-

haps upon the floor, to place her as erect as he could, and to wrap a portion of the bed-clothes around the lower parts of her naked body, before he went to seek assistance? Is it not what almost any man, in the same circumstances, would have instinctively done, and would his having done so afford any reason for believing that he had murdered the woman? On the contrary, would it not rather lead to an opposite belief, since, of all the postures he could possibly have selected, had he been a murderer, to make it appear that her death had been natural, the one above described was the least adapted for the purpose? We may concede then with perfect safety, if not with advantage, that the posture in which the corpse was found was that in which it had been placed by Reid. But it still remains a question whether this attitude were retained, as was supposed, by the rigidity of death; the occurrence of which would have warranted the presumption of PROFESSOR CHRISTISON that she had been dead some time, and perhaps therefore had been killed by Reid at his preceding visit to his house, which had taken place at nine o'clock, he having been absent from home from half past nine o'clock till two. It is hardly necessary to say that the supervention of such rigidity by this time would have proved nothing prejudicial to the Prisoner, since Mrs Reid might have died from natural causes at any time during this interval: but the presumption is that no such rigidity had at this time taken place. At the time of Reid's changing the posture of the body, it had either already acquired this rigidity, or it had not. If it had, provided the woman had died in any other posture—and

that she became rigid as supposed by PROFESSOR CHRISTISON, with her limbs in this relative position while stretched on the bed or on the floor is inconsistent, as remarked by Dr MACKINTOSH, with the direction of the legs—he could not in all probability have made the body *assume* the attitude which it presented; if it had not, he could not, unless some other cause had been in operation, have made it *retain* that attitude. It may be said indeed that the upper parts of the body might have been already rigid while the lower were still flexible, and there can be no doubt that this is perfectly possible: but what right have those who take an unfavourable view of the question to assume, among so many other things, that such was the case, while they deny, as they do, to those who adopt the opposite opinion, the privilege of assuming any thing? Supposing however that Reid had either succeeded in bending the body, already stiff, into the attitude required, or, having placed it in this attitude while flexible, had held it stationary till it became rigid, how is this presumed rigidity compatible with the fact that, *at the time of finding the corpse it was perfectly supple*—so much so, that Mrs THOMSON thought that the woman had just died? The neck, we find, was so flexible as to allow of the head being immediately placed on a chair, as it was by CHERRY MANNERS; the arms and legs were perfectly pliant, and “easily stretched down,” as they are described to have been by Mrs NESS; and the whole body was so yielding as to admit of being directly laid out upon the floor, as is stated by ISOBEL YOUNG, Mrs THOMSON and other Witnesses. It is true the rigidity of death ceases after

some time, and, as observed by PROFESSOR TRAILL, may be diminished by much handling ; but it never goes off so suddenly and so entirely, as to admit of a posture like the one described being thus abruptly changed. Further, the presumption that the retention of this posture was owing to rigidity is opposed to the fact that there was at this time no appearance of that discoloration which afterwards shewed itself, and which, whether it depended on *Ecchymosis*—in other words the active deposition of blood by the blood-vessels while still possessed of vitality—or on *Livor*—that is to say the passive deposition of blood by these vessels after the cessation of the circulation, but before the blood has become coagulated—would in all probability have manifested itself before such rigidity. It appears indeed in the highest degree inconsistent, as observed by Dr MACKINTOSH, to represent a dead process, like that of the supervention of rigidity, as preceding a living process, like that of the occurrence of *Ecchymosis* ; and if the rigidity of the muscles after death depend, as is probably the case, upon the same cause as the coagulation of the blood—namely the inspissation of the chemical principle called Fibrin—it is reasonable to suppose that this rigidity would not have preceded *Livor*, since the process by which the latter is effected implies that the blood is still in a liquid state : but to this subject I shall recur in future. I have said nothing of the partial warmth of the body when first found, since this is quite compatible with the occurrence of rigidity ; but such is hardly the case with the want of the marks just alluded to. The fact appears to be that, while the erect posture of the trunk was the

effect of the man's attempts to raise the corpse, the perpendicular direction of the right arm was the result, not of the ordinary *post mortem* rigidity, but of a spasmodic contraction of the muscles from a fit, in which the woman had died, not from two to eighteen hours, as supposed by PROFESSOR CHRISTISON, but probably only a few minutes before she was found ; an accident to which—as will be shown in the sequel—she was obviously predisposed, to the exciting causes of which she had been recently exposed, and the supervention of which about this time might, from the immediately preceding symptoms, have been anticipated. The probability is that on getting out of bed—and she seldom rose, as we learn from ISOBEL YOUNG, till past mid-day—she had fallen on the floor in a convulsion fit, and that the effects of this, after death, were more perceptible on the right arm than on the left, because the right side of the body was comparatively healthy, and therefore more susceptible of spasmodic action, while the left was palsied. Of this palsy and its effects I shall have to speak elsewhere ; but in the mean time I may remark that it was the right side of the head principally, according to CHERRY MANNERS, of which Mrs Reid was accustomed to complain, as is frequently the case in palsy of the left side of the body, and towards the right side, according to Mrs FIFE, that she inclined during walking *, as would probably

* Mrs GRAY or SMITH of Kirkcaldy says, that it was towards the *left* side that Mrs Reid inclined ; but it is fair to believe that Mrs FIFE, her immediate neighbour, was less likely to be mistaken in this particular than Mrs SMITH, who lived at a distance, saw her but seldom, and was not acquainted with her.

be the case from the greater action of the muscles of the spine on this side than on the other having produced a curvature of the spine in that direction. And these facts, while they favour the presumption that the peculiar posture in which the limbs were found depended upon a spasmodic contraction of the muscles, are further hostile to the notion that it was maintained by the rigidity of death ; such rigidity occurring not less remarkably—perhaps even more remarkably—in palsied limbs than in those which are healthy. The former presumption likewise is quite reconcileable, while the latter is not, with the sudden and perfect return of flexibility. Again, Mrs Reid had suffered, only a short time before, an attack of apparently precisely the same kind, in which, as appears from the evidence of YOUNG, THOMSON and others, she became speechless and seemed to be dead ; the body was cold, and the “ *arms so stiff,*” that Mrs THOMSON had “ great difficulty in getting on her shift.” Was this the stiffness of ordinary *post mortem* rigidity, or that of spasmodic contraction ? How long the stiffness from the latter cause may continue after apparent death I shall not here stop to inquire. We know that the features of the face often retain, till putrefaction supervenes, the expression of the last mental emotion ; that in cases of death from cholera the contractions of the extremities are often equally permanent ; and that after death from tetanus, particularly as induced by certain poisons, the permanence of such contractions is still more remarkable : but upon this subject I have no intention of dilating. It is sufficient for my immediate pur-

pose if it be conceded that they may continue for only a few minutes, so as to obviate for this period the natural tendency of gravity : for that the woman had not been dead any great length of time is presumable, among many other things, from the non-appearance at the time the corpse was found, *or for a long time afterwards*, of the least degree of *Livor*, a fact which PROFESSOR CHRISTISON himself admits is irreconcilable with the opinion that she had been killed at nine o'clock. If this be true she must have died at some time between half past nine o'clock in the morning and two in the afternoon, during the whole of which time Reid was out of the house, and therefore could not have killed her. For the presumption, supposed by Dr FORBES, that the fatal blow might have been inflicted at nine o'clock in the morning, or even at twelve o'clock the preceding night — when the exclamation already alluded to was heard—and not produce its effect till some hours afterwards, when, upon the woman's attempting to raise her head, the supposed injury of the spine was made to bear upon the spinal cord, is obviously untenable ; since a blow of sufficient violence to produce this injury of the spine must, as admitted by PROFESSOR CHRISTISON, have at once proved fatal, if not by the direct physical compression of the spinal cord, at any rate by the intensity of the concussion to which it must have been subjected. It would have settled the question respecting the presumed change of posture after death had the natural *Livor* displayed itself by the time the body was found ; since it would of course have been seen principally, not in those

parts which were undermost at this time, but in those which had been undermost while this process was going on : but this criterion was of course unavailable in the present instance. Whether the posture were changed or not however, the circumstance furnishes, as I before observed, not a tittle of evidence in favour of the presumption of murder, except as taken in conjunction with Reid's denial, at one time, of having been at home at two o'clock, of which I still have occasion to speak under the head of the moral circumstances of the case.

2. The next consideration is the discoloration of the skin of the back of the neck and spine, which was presumed to indicate *Ecchymosis*, the result of an injury inflicted during life. And in the first place respecting the *period* at which this discoloration first displayed itself. It certainly was not seen at half past two o'clock on the Saturday, the day of the supposed murder—by which time it has been presumed that the rigidity of death had supervened—by either Mrs TOD, Mrs CHISHOLM, Mrs NESS or Mrs THOMSON, although Mrs NESS and Mrs THOMSON examined the body carefully, and must have seen, as Mrs NESS avers, such discoloration had there been any ; nor was it observed at eight o'clock in the evening of the same day by either Mrs FIFE, Mrs THOMSON or any body else who assisted at the examination of the body at this time. Mrs FIFE and Mrs THOMSON were again present at the subsequent examination at eleven o'clock the same evening, with Bailie WALKER and Mr WILLIAMS the Surgeon*, but still

* Concerning Mr WILLIAMS—the first of the only two *Medical* men who saw the body, or any part of the body in this case—who

neither saw any discoloration, nor heard any spoken of; as was also JAMES FIFE, who saw "no spot or blemish," and in answer to whom Mr WILLIAMS said that he found no marks of violence upon the body, and that *the woman had died a natural death!* This declaration was made *fourteen hours* after the supposed injury. The first word we hear of discoloration is from Bailie WALKER, who says that *he* observed, on this occasion, "some black sort of marks about the neck, the principal being below the right ear." He afterwards says that "the principal marks were on the back of the neck and down the spine;" but on his cross-examination by Mr James Anderson, the talented Counsel for the Prisoner, admits that they did not look down the back on Saturday night—that the body was not turned over at that time—and that these latter marks were not noticed till the next examination, on Sunday at four o'clock, or *thirty-one hours* after this alleged injury. Now from what cause must we in candour conceive that marks now for the first time manifesting themselves arose—whether were they indicative of *Ecchymosis*, a vital process the result of a blow, or of *Livor*, a dead process the result of the *post mortem* porosity of the vessels? Dr FORBES, one of the Crown Witnesses, remarks that "if the woman had been killed at nine o'clock

more in open Court that he had a diploma from the College of Surgeons of London, and on whose report the opinion of the principal Medical Witnesses for the Crown almost entirely hinged, I shall have to say more anon. In the mean time I have only to remark that he was utterly unqualified and unauthorized to give any medical evidence whatever.

on Saturday morning, he would have expected the livor from the blow" (*i. e. Ecchymosis*) "to appear by two; and if it did not show itself by eight in the evening, it would never show itself at all." And to the same effect says PROFESSOR TRAILL, another Witness on the same side, that "*Ecchymosis* cannot take place after death; *Livor* may;" and again, "if *Ecchymosis* were not visible by the time rigidity commenced, it would never be visible by colour afterwards." But the discoloration in question was not visible by eight in the evening of Saturday, nor for many hours afterwards, and certainly not by the time rigidity has been presumed to have commenced; so that, by the showing of their own colleagues, a discoloration which the Crown party in general has presumed to indicate *Ecchymosis* did in fact indicate only *Livor*. Dr FORBES, we find, makes no difference between the two, and instances a blackeye as an example of *Livor*! —but the unbecoming manner in which he attempted to silence Counsel, obviously much better instructed in this matter than himself, is unworthy of any notice. It was deposed likewise by Drs MACKINTOSH and ROBERTSON and PROFESSOR LIZARS that a true *Ecchymosis* from a blow would in all probability have occurred, according to the first, almost immediately, according to the second, within the first two hours, and, according to the last, within from four to six hours after the reception of such blow. PROFESSOR CHRISTISON, on the other hand, seems to regard the time of the appearance of *Ecchymosis* after an injury as much less certain than that of the manifestation of *Livor* after death, the extreme limits of which he represents as five or six hours; and observes that "if

no *Livor* were seen at eight o'clock on Saturday evening, there must have been some extraordinary error in the facts." There were, Heaven knows, many "extraordinary errors in the facts," and such as one would suppose might have invalidated, in the mind of every unprejudiced Medical Witness, any conclusion whatever from them; and in particular the conclusion that this poor woman was murdered at nine o'clock, rather than that she died a natural death at a little before two. But PROFESSOR CHRISTISON'S opinion, far from weakening, is a corroboration of the inference to be drawn from that of the other Medical Witnesses, that the discoloration in this instance did not originate in *Ecchymosis*, but in *Livor*; for, if it follow from their statements that it could not have been *Ecchymosis* from its late appearance, it is an equally fair corollary from his, that the marks which first displayed themselves resulted from that cause which is most uniform in its operation, and was therefore *Livor*. Nothing was said on the Trial respecting the more or less determinate margin of the discoloration, or of the precise situation of the blood, as merely loosely diffused through the substance of the skin, and that perhaps only a very thin stratum near its surface, or compactly incorporated with the substance both of the skin and of the subjacent cellular tissue—the generally received grounds of distinction between *Livor* and *Ecchymosis*—the incompetency of those who witnessed the marks in question having rendered quite vain the hope of illustrating the real nature of the discoloration by any observations like these. And with respect to that green or yellow colour which, in the living body, after a time charac-

terizes the latter, this criterion of judgment would of course in the dead body be wanting. There can nevertheless be little rational doubt that the discoloration now under consideration resulted from the dead process of *Livor*, and not from the living process of *Ecchymosis*. The death of the woman, however occasioned, had been sudden, in which case the blood commonly remains for a long time fluid. The corpse was placed on the back about half-past two o'clock on Saturday, and the posture had undergone only temporary changes till eleven, when "a black sort of mark" is said to have been perceived under the right ear; and this posture remained again unchanged till four o'clock the next day, when similar marks were observed on the back of the neck and down the spine: all which marks are described by Dr FORBES, who saw them the day after, as presenting "a livid appearance, but nothing more than what is usual in dead bodies which lie twenty-four hours on the back." And that this black sort of mark should show itself first under the right ear may perhaps be accounted for either from the sore on the head, under which we find, from the evidence of Mrs WILSON, the deceased had laboured, and which, as observed by Dr ROBERTSON, had probably rendered this part more vascular than the rest; or from the curvature of the spine towards the right, which PROFESSOR LIZARS reasonably enough supposes might have produced an inclination of this side of the head downwards, when the body was placed on the back. It may be remarked further that, upon the presumption that the supposed blow was inflicted while the woman was in bed, as paralytic patients usually lie on the sound side, which in

this woman was the right, and seldom or never on the face, the right side of the head and the back of the neck and spine are the very last parts upon which such a blow was likely to fall; while, on the other hand, these parts being after death undermost, and comparatively free from the pressure of the surface on which the corpse lay, and which, contrary to the statement of Dr FORBES, is known to every well-informed medical man to obviate, instead of promoting the occurrence of *Livor*, are precisely those in which we should have expected an accumulation of blood from this cause. So much for the *period* at which this discoloration first manifested itself: again, how far does the *extent* of this discoloration correspond with the idea of its having resulted from a blow inflicted during life, with the blunt extremity of an axe, upon the upper part of the spine? Bailie WALKER says that it extended three or four inches down the back; and Mr WILLIAMS, that it reached to the sixth vertebra; but whether it were the sixth cervical, the sixth dorsal or the sixth (!) lumbar vertebra, as he was ingeniously asked by the Counsel for the Prisoner, he was quite unprepared to determine. And indeed such depth of information could hardly be expected from one who was totally ignorant of the number of vertebræ in the spinal column, who described, in writing, the first *series* of vertebræ as formed by the atlas, and the second by the “*tentata*,” (*dentata*) and who represented the “*outward jugler*” (external jugular) vein, first as carrying the blood from the “*hart*” (heart) to the brain, and afterwards, by way of an amendment, as carrying it from the brain to the “*hart* ;” and yet it was upon the

presumption of the accuracy of the statements of this man that the very essence of the *Corpus Delicti* principally, and almost entirely rested! * We find from the evidence of JOHN ARNOT that WILLIAMS cut “from the crown of the head all the way down the back;”

* It was suggested by the Court that an accident which Surgeon WILLIAMS had *so very inopportunately* met with the day before that on which the Trial was first expected to come on, (16th of March) and which had entailed upon him a loss *so very inconvenient* to a Witness in a court of justice—that of speech, might have so far impaired his memory also, that he was inadequate to answer these *very searching* questions, and the Witness deposed accordingly that his memory *was* very much impaired: but, with submission, if his memory were too treacherous to enable him to answer questions which the veriest tyro in medicine would have felt humiliated at being called upon to solve, it was certainly too treacherous to be trusted—and that without a shadow of notes taken at the time of the investigation—in an affair which involved the life of a fellow creature. But what will the public think when told that WILLIAMS is no Surgeon at all—that he never had a diploma from the Royal College, or, as he called it, “the Body” of Surgeons of London—that he SWORE WHAT WAS FALSE, first in stating that he had such a diploma, and again in stating that he had not been cited (which he was three several times) to produce it—and that Reid was in danger of being sacrificed on the representations of a man who was not only unauthorized to give any evidence at all in this case, but who was obviously no more competent to describe the appearances presented on the dissection of a dead body than a street porter? How any respectable Medical Witness could build and maintain an opinion upon the statements of a man the grossness of whose ignorance was so apparent is inexplicable; but it is highly gratifying, at the same time, to find that the *exposé* of want of knowledge on this occasion cannot affect the character of the profession in general. There are few practitioners, even in the most obscure towns of Scotland, who are not at present distinguished by an extent and precision of information which not many years ago were the attributes only of a chosen few, even in cities; and there is hardly a first-year student now in Edinburgh, who could have disgraced himself by such a display as was made in this instance.

and from that of Bailie WALKER, that he cut "as far as he saw blackness." Hence it results that the discoloration really extended all the way down the back, as well as "to the top of each shoulder;" for such was the direction and extent of a transverse incision which WILLIAMS made on this occasion, "at least eight inches," as Dr FORBES says, "below the seat of the dislocation" which was afterwards discovered. And with respect to the longitudinal incision, the evidence of Dr FORBES bears that this extended "from the occiput to the second or third lumbar vertebra;" so that, to waive the slight discrepancy between these two *Medical* gentlemen of some fifteen or sixteen vertebræ — for WILLIAMS' sixth was afterwards explained to mean the sixth from the head—we seem justified in supposing that it reached from one shoulder to the other and from the head to the loins. Now is a discoloration of this extent what we should have expected from any blow, and in particular from such a blow, and in such a situation as is above supposed? PROFESSOR CHRISTISON indeed says that "a blow might have produced the livid appearance described." Not, I am afraid, without the admission of another "extraordinary error" or two in the facts, a too frequent repetition of which would have ended probably in an extraordinary error of a very melancholy description.

3. But perhaps the least equivocal characteristic of *Ecchymosis*, as distinguished from *Livor*, is the presence in the discoloured part of coagulated blood; and it appears from the evidence of WILLIAMS, that "a quantity of coagulated blood" issued from the mark below the right ear, upon his dissecting away the skin from the part—a conclusive proof, in the

minds of PROFESSORS CHRISTISON and TRAILL, that this mark was the result of an injury inflicted during life. But admitting that it would have been so had the fact been established, what evidence have we that the blood which issued from this part was really coagulated, except the *ipse dixit* of a person, who, from the display which he made with respect to the solid parts, may be fairly presumed to be quite incompetent to make any nice distinctions in this respect? And indeed there is strong presumptive evidence that the blood found in this part was in fact in a liquid state. Bailie WALKER expressly says that, at this time, "WILLIAMS did not cut under the right ear" — "did not cut nearer to the right ear than the centre of the back," and Dr FORBES equally explicitly states that "the skin was not cut away at all," so that the blood in this part could find an exit only indirectly by some one or other of the wounds in the neighbouring parts; and yet this blood is described, both by Bailie WALKER and by JAMES FIFE, as *flowing* from this spot below the right ear, leaving the part which had previously been "as black as their hat" without the least appearance of discoloration. Now can this be true of really coagulated blood, closely incorporated with the substance of the cellular tissue and skin, and that at a distance from the part in which the incision was made, or does it imply that the blood was still in a liquid state, and only loosely diffused through the substance of the latter? It is obvious to common sense that whatever blood came thus from the discoloured parts could not have been coagulated. "It was *thick*," says Bailie WALKER, "but it still *flowed*;" and PROFESSOR

CHRISTISON admits, in his evidence, that the term "thick" is often applied by people in general to the blood as it flows from a vein in the ordinary operation of blood-letting from the arm, when it is still perfectly liquid. We have no right then to assume, as PROFESSOR TRAILL thought proper to do, that when Bailie WALKER called the blood thick, he intended to express that it was coagulated; and as to what WILLIAMS meant by the use of the latter term, the presumption is that he had no distinct meaning at all. Further, if the blood had been really coagulated in this or any other part where the discoloration was seated, it could not, as remarked by PROFESSOR LIZARS, have all escaped, but must have left traces which would have been visible the next day, when Dr FORBES distinctly says he found nothing unusual. It is no doubt highly probable that a portion of partially coagulated blood did in fact issue from some of the subsequent incisions made during the carving to which the body was on this occasion subjected, such blood oozing directly from certain large vessels which were inadvertently divided, and constituting a great part of the "half pound" or "half tumbler" described by the witnesses as coming from the discoloured parts; but this has nothing whatever to do with the presumed *Ecchymosis* in question*.

4. And this brings us to the next subject of inquiry, the alleged rupture, by a blow, of the right external jugular vein, whence WILLIAMS chose to

* "The effusion of fluid blood from vessels in the neighbourhood of which it is coagulated must have occurred *in the dead body.*" (Dr CHRISTISON'S Cases and Observations in the Edinb. Med. and Surg. Journ. vol. xxxi.)

imagine that the alleged coagulated blood, *constituting the Ecchymosis* below the right ear, had proceeded. But, to omit the inaccuracy of calling that an *Ecchymosis*, which, had it occurred, would have been, not an *Ecchymosis*, in the proper acceptation of the term, but a *Thrombus*, and the total inapplicability of this doctrine to explain the extensive discoloration down the back—it is in the highest degree unlikely that there was any such rupture of the right external jugular vein at all. This may be fairly inferred, partly from the extreme rarity, as stated by Dr ROBERTSON, of this accident from a blow of any kind, and the excessive improbability of its resulting from such a blow as should at the same time fracture the *vertebra dentata*, partly from the very tardy appearance of the discoloration in question, and partly from there not having been, at any time, the least appearance of a tumour about the part, as distinctly deposed by the Witnesses Mrs CHISHOLM, Mrs NESS, Mrs FIFE, Mrs THOMSON and WILLIAMS himself. The external jugular vein proceeds, as every body knows, from the parts about the face down the sides of the neck, immediately under the skin, and is altogether out of the way of the upper part of the nape of the neck, in the depths of which is situated the *vertebra dentata*; and as to a rupture of this vessel having deposited “as much as half a pound of blood,” or “as much as would fill a half tumbler,” below the right ear, without producing any tumour, it is perfectly incredible. If blood came from the large blood-vessels at all, it was in all probability in consequence of WILLIAMS having wounded them by incisions, which are designated by his coadjutor “as any thing

but what he should have expected from a surgeon," and such blood was in all likelihood partially coagulated. Nor can it be urged by those who ascribe the peculiar posture in which the body of Mrs Reid was found to the rigidity of the muscles, as any objection to this opinion, that after a sudden death from any cause, the blood in the large blood-vessels is rarely found coagulated. In such cases the muscles rarely become rigid, the same causes operating, at least frequently, in obviating both these phenomena; * so that the Witnesses for the Crown, in denying that coagulated blood could have been discharged as a consequence of such incisions, appear to be on the horns of a dilemma, since, if they deny that the blood in the large blood-vessels would in this case be coagulated, they cannot very consistently maintain their position with respect to the assumed rigidity of the muscles—if they cling to this assumption, they must at least admit the probability that the large blood-vessels, if cut, would exude a portion of at least partially coagulated blood. WILLIAMS indeed says that his scalpel did not approach the right external jugular vein, and that he only "dissected away the skin from it;" but, to say nothing of the impossibility of doing this without "his dissecting knife coming near it," it is stated by Dr FORBES that one incision made by WILLIAMS in the neck was "*from one jugular vein to the other—as deep as it would go—close to the bone—as far round as the angle of the jaw.*" I can no more understand this description of the incision than could PROFESSOR TRAILL, nor perhaps did Dr FORBES

* "The coagulation of the blood appears to happen soon after the stiffening of the muscles begins." (Dr CHRISTISON, op. cit.)

himself; but it is evident that it was a pretty deep and extensive one, since we shall in future find that it was by putting his hand into this gash that Dr FORBES alleged that he discovered the fracture and luxation of the vertebra dentata. By this incision several large blood-vessels, arteries as well as veins, must of necessity have been divided, and where is the improbability that some partially coagulated blood would issue from these, or that such blood would be confounded by any one who could make such an incision with the still liquid blood which flowed from the discoloured parts, and constituted the *Livor* mistaken for *Ecchymosis*? Can we believe that such a one was competent to distinguish between the effects of his own reckless operations, and a rupture of a vein produced by violence inflicted during life? In this way it is easy to understand why the spot below the ear was the only one of the discoloured parts which appeared to exude coagulated blood. But it appears that it was not only an atlantic of *Ecchymosis*, a rupture of the right external jugular vein, "opposite (!) the vertebra dentata," (I will not offend my readers by again copying this person's orthography) and, as we shall presently find, a fracture and luxation of this vertebra dentata, which resulted from the imaginary blow in question, but also some tremendous mischief or other on the *left* side of the neck, since WILLIAMS found here likewise, as he deliberately stated in writing, "behind the left ear, on dissecting away the skin, the resemblance of a blow or a concussion!" What any man could possibly mean by "the *resemblance* of a *blow*," and still more by "the *resemblance* of a *concussion*," even supposing, as we are

perhaps in charity bound to do, that he intended to say *contusion*—as he intended perhaps to say thickened, when, in speaking of the blood, he called it coagulated—I am at a loss to conceive; and how any well-informed Medical Witness could sit by to hear such arrant nonsense, and still hold to any opinion founded upon the evidence of the man who could utter it, is still more unaccountable.

5. From what has preceded then it seems fair to doubt, if not expressly to deny, that there was, in this case, any real *Ecchymosis*, any escape of coagulated blood from the discoloured parts, or any rupture of the jugular vein at all. The next point to be considered is the alleged fracture and dislocation of the vertebra dentata. For the sake of the non-medical public I must explain that the second vertebra of the spine, or vertebra dentata, sends upwards from the fore part of its body a tooth-like appendage, called the processus dentatus, which is received into the fore part of a ring, formed by the first vertebra or atlas, so that a blow inflicted upon the vertebra dentata from behind might, by driving forward its body, snap off this appendage against the fore part of the margin of the ring of the atlas, and thus allow the vertebra dentata to slide out of its natural situation. It is this which is presumed to have occurred in the present instance, and to have been the immediate cause of death, by the pressure thus made upon the spinal cord. But—to say nothing at present of the latter point—what evidence have we that the vertebra dentata was in fact fractured and dislocated? Were the bones in question forthcoming, as they should have been, at the Trial; or, if not, what had become of

them? It is hardly credible that it was coolly confessed that one of the *Medical* gentlemen on whose testimony the case for the prosecution principally rested had, with a degree of carelessness perhaps unexampled in a judicial investigation of such moment, thrown them away, after their removal from the body by the other, “*with a parcel of beef-bones!*”—a slight specimen of the care and attention with which we may presume the other parts of the proceedings, even supposing him to have been otherwise competent to the office, were conducted. The best evidence of the fact of the fracture, as well as of the state of the bones, whether healthy or diseased—a circumstance, as we shall see directly, of vital importance—was thus withheld, and the Prisoner was deprived of the advantage which might have resulted from their production. Had they been exhibited in Court, and examined by careful and competent persons, disease might have been detected, and the fracture, if there really were any, traced to that cause. But allowing that the bone was really fractured and dislocated, either at the time when it was described by Dr FORBES on the Trial as so found, that is to say, between nine and ten o’clock on the Monday morning—*forty-eight hours* after the supposed murder—or at the subsequent exhumation of the body on the Friday, *

* From the medical report made by Dr FORBES and Mr WILLIAMS to the Sheriff on Monday the 22d September it appears that the *dislocation* alone was discovered at this time, the *fracture* being mentioned for the first time in the report of Friday the 26th, the discovery of this having apparently taken place only on the body being disinterred and the bone removed: but this is only one of the numerous inconsistencies and anomalies with which this memorable case abounds.

is this fact not as easily reconcileable with the presumption that the accident took place after death, as that it was the cause of the fatal event ; nay, is it not even more easily reconcileable, supposing the evidence of the *Ecchymosis* to be disallowed, with the former presumption than with the latter ? When the corpse was first found, at half-past two o'clock on Saturday, the position of the head was, if not quite erect, as stated by the witness NESS, at any rate only a little inclined backwards and to one side, as deposed by CHISHOLM and MANNERS, "*just like a usual corpse,*" as remarked by NESS, who had been accustomed to stretch dead bodies, "*and not the least like as if the neck was broken ;*" and it further appears, from the evidence of YOUNG and CHISHOLM, that the head did not change its position when the body was shaken by the hand of the latter applied to the shoulder, with so much force as to change the position of the hand which was upon the floor, so as to turn the palm upwards. Is this consistent with the presumption of a fractured and dislocated neck ; nay, does not Dr FORBES himself admit that "the head would have dangled, when the shoulders were shaken, if fracture and dislocation had previously existed ?" It is true the rigidity of death might have prevented this, and, had the alleged injury been received when the body was recumbent, so that the head was prevented from assuming the dangling position natural after such an occurrence, might have held the head in the posture described even under this discipline. But, not to recur to all that has been already said against the probability of such rigidity having taken place at this time, the body was, in fact, *not* rigid—the neck,

the arms and legs, and the whole body were perfectly flexible, as already stated—the neck in particular so much so, as to allow of the head being immediately placed without any difficulty on a chair, as was done by CHERRY MANNERS, who raised it by the chin and back part, and must have noticed any preternatural looseness of the neck, had such existed. The fracture and dislocation of the neck then had not taken place at this time, and could not therefore have been the cause of death. Nor was this accident discovered at eight o'clock on the evening of Saturday, when the body was examined by Mrs FIFE, Mrs THOMSON and several others; nor at eleven o'clock, when it was re-examined by Mrs FIFE, Mrs THOMSON and JAMES FIFE, in company with Bailie WALKER and WILLIAMS. WILLIAMS indeed pretends to have detected it on the Sunday; but he certainly never stated his discovery either to Bailie WALKER or to Dr FORBES previously to the examination at which he was present with the latter on the Monday; and Dr FORBES in his evidence sneered at the idea of WILLIAMS having before that time entertained the least suspicion of it. And in the mean time how had the body been tossed about on chairs, and beds, and stretching boards, and how had it been mangled! To say nothing of the probability of this accident having occurred during some one or other of these numerous examinations by unskilful persons, it appears that no adequate precautions were taken by the authorities to prevent access to the room in which the corpse lay in the intervals. No seal was placed on the door, as it should have been; and the key was left in an adjoining apartment, at the command of

any body who, in idleness or malignity, might choose to tamper with the corpse. And with respect to the mangling, let us remember that on the Sunday the head had been more than half cut off, as appears at least from Dr FORBES's account of one of WILLIAMS' incisions, "that it extended from one jugular vein to the other—as deep as it would go—*close to the bone*—as far round as the angle of the jaw!" No wonder that Dr FORBES noticed on the Monday, when he saw the body for the first time, the "looseness of the neck;" and he was hence led to suspect a fracture of the processus dentatus, and a dislocation of the second vertebra upon the atlas, although he appears to have taken no means of verifying his suspicion, except that of thrusting his fingers into the chasm aforesaid, when he detected, on making the head revolve, such "a rasping and grating" as confirmed him in his conjecture. Is this all that an accomplished surgeon would have done on such an occasion, and would such a one have allowed the body to be buried, and subjected to the further violence of exhumation four or five days afterwards, before the alleged fact was properly established? It is extremely doubtful, as remarked by PROFESSOR LIZARS, whether such an injury as this could possibly be ascertained by the means first employed, some diseases of the bones being competent to produce a very similar sensation to that above described; * so that we have the additional probability of the alleged fracture and dislocation having in fact taken place during the disinterment—perhaps one of the most common causes of this acci-

* See Note, p. 53, line 1.

dent. The presumption is, as will appear more fully in the sequel, that the woman had laboured under a disease of the upper cervical vertebræ—a presumption which is in strict accordance with the only one hitherto admitted, namely, that she was predisposed to spasmodic affections—and that the repeated acts of unskilful and perhaps wanton violence, to which the body was subjected after death, had produced the injury in question. I do not require to be told that such a fracture and dislocation of the vertebra dentata is not a common accident after death, or that it is often in vain that we attempt to fracture the processus dentatus in subjects brought into dissecting rooms. Such a fracture however does sometimes occur even when the bones are sound ; and the experiments made to effect it would perhaps have been more frequently successful had the head, as in this instance, been half cut off as a part of the process. At any rate when the bones are diseased, as was probably the case in this woman, it not unfrequently occurs even spontaneously, and may easily be supposed likely to result from much less handling and mangling than was in this case employed. Let those likewise who ridicule the idea of this occurrence, and represent it as next to impossible to effect a fracture of the processus dentatus in the dead body, take care that they do not, like green logicians, prove too much for their purpose. For if, in the dead body, it is *next to impossible* to effect it, provided the bones are sound, in the living body, when the resistance of any injury is so much greater, and particularly in a person lying in bed—as is presumed to have been the case in this instance—when the resistance of any force calculated

to effect a change in the relations of the bones of the spine would be of course immensely increased, it may be presumed to be *entirely so* : consequently Reid could not have murdered his wife by this means if the bones had been sound, and if they were otherwise the occurrence of this accident is no evidence of violence at all. But to return to the facts of the case. It is asserted that the *processus dentatus* *was* in this instance fractured, and that the bone, when at length removed from the body, was found to be perfectly healthy ; but upon what evidence does the latter fact rest ? Dr FORBES says that “ the bones were sound, *as far as he could see,*” and PROFESSOR CHRISTISON, that “ no material disease could exist if the bones appeared sound ;” but with how much greater justice was it asserted by Dr ROBERTSON that it would require minute examination, and perhaps even maceration, to ascertain the presence of certain diseases which would render the bones preternaturally fragile. But the bones in this case were not particularly examined, as confessed by Dr FORBES, at the time they were removed ; and, before he had a second opportunity of seeing them, had been tossed away by his colleague with a parcel of beef-bones ! And with what degree of care was the state of the contiguous parts and of the rest of the body investigated ? No notes whatever were taken during the examination. The periosteum or membrane covering the bone, on the surface of which PROFESSOR CHRISTISON admits that “ blood should have been found had the fracture occurred from violence inflicted during life”—the vertebral canal, which would in all probability have manifested further marks of the injury—and the spinal

cord, from the effects upon which alone such an injury could have proved fatal—(will it be believed?) were not examined at all. The Examiner “could not say whether the jugular vein was cut through or not.” None of the internal organs, with the exception of the brain, which appeared healthy, were ever thought of. Almost the only part looked at, except the afore-said reputedly sound bones, was the transverse ligament which confines the processus dentatus, and which was *not* ruptured. “No extravasated blood,” says the Examiner, “was seen more than in an ordinary dissection.” And yet this gentleman still maintained “that the fracture of the processus dentatus was the cause of death;” and others, who had expressed an opinion to the same effect perhaps before they were aware of the extreme slovenliness of the proceedings on which it was founded, did not hint at a doubt or qualification of this opinion, when that slovenliness must have been so manifest, but continued to cling to the dogma that there was “no rational way of accounting for these injuries except by a blow,” and that “Mrs Reid had died by violence!”

6. The finding of the axe in the Prisoner's room, somewhere about the grate—the very last place, by the way, where he would in all probability have put it, had he made it the instrument of murder, as it would of course be the first place where such an instrument would be sought for—is of no importance, otherwise than taken in conjunction with such manifestations of violence as might be supposed to have been inflicted with such an instrument, the evidence of which is so inconclusive. I may just observe however that it must have been an axe of unequalled

powers if it could, at one blow, produce an extensive *Ecchymosis* under the right ear, across the shoulders and down the back as far as the loins, a rupture of the right external jugular vein, "the resemblance of a blow or a concussion" behind the left ear, and a fracture and luxation of the vertebra dentata; and the presumption of more than one blow, or even of one blow, having been struck with such an instrument is inconsistent with the non-appearance, particularly in a weak, emaciated subject like Mrs Reid, of the least abrasion or puckering of the skin, as distinctly deposed by Mrs CHISHOLM, Mrs NESS, Mrs FIFE and Dr FORBES himself. The blunt extremity of the axe produced in Court was bounded by four pretty sharp angles, and there was in one corner of it when found, as noticed by Dr FORBES, *a portion of dust remaining*. It could not therefore have come down flat; and how an instrument of this kind could have inflicted a succession of immensely forcible blows, or even one such blow, coming down obliquely on the body, without leaving any external traces of its action, I am at a loss to conceive. Moreover the blow or blows are presumed to have been inflicted while Mrs Reid was in bed, lying probably on the right side, a posture which, from the plan of the apartment exhibited in Court, would have brought her face to the wall, so that the man must have stood behind her while inflicting it; and how he could possibly, in this situation, so apply an axe to her body as to produce, I do not say all the injuries, but any one of the injuries in question, is to me equally incomprehensible.

So much then for the validity of the evidences of any violence whatever having been offered to this woman, constituting in this case the *Corpus Delicti*. We have seen that, of these reputed evidences, the majority are founded on presumptive facts, which not only hinge on statements so questionable as to be altogether unworthy of credit, but are inconsistent, as well with one another, as with common sense; while the remainder, even if the facts on which they are founded be admitted, furnish no evidence at all. The proof of the violence being so defective might perhaps supersede the necessity of entering at all into the *Moral circumstances* of the case, from which it was inferred that Reid was the inflictor of that violence; since where there is no Crime, there can of course be no Criminal. It seems proper however, as great importance is attached by some people to these circumstances—and they certainly would, if really valid, add weight to the presumption, in a doubtful case, of violence having been committed—to show that, in this instance, they are not such as to add either proof or probability to this presumption.

7. It appears from the evidence of ISOBEL YOUNG that the Prisoner was in the habit of cursing and swearing at his wife, “of calling her a dirty brute, and telling her to stand out of his road,” and of using threatening expressions towards her; from that of JOHN ARNOT, the brother of the deceased, that, on one occasion, he told her to go home “or he would break her neck;” and from that of Mrs FIFE, that, at another time, he desired her to hold her tongue, “or he would rise and choke her.” But how continually coarse and sanguinary expres-

sions like these are employed by persons in the lower ranks of life, and with ill-regulated minds, on every trivial provocation, without any deliberate purpose of mischief, must be known to every body ; and when we reflect how frequent and grievous were the occasions of irritation which this wretched woman gave her husband by the filthy practices resulting from an infirmity to be in future alluded to, we may easily conceive that he would now and then express himself in no measured terms towards her. But his demeanour might be nevertheless on the whole any thing but ferocious ; and indeed it is admitted by ISOBEL YOUNG, as well as deposed by Mrs CRICHTON and others, that when his wife was ill, as already stated, a few weeks before her death, he behaved to her with the greatest kindness and attention. Mrs CRICHTON further states that Reid and his wife always appeared to her to live together “ on very good terms ;” and HENRY RUSSELL says that he saw them “ standing cracking together in a friendly manner, and him patting her on the shoulder,” on the very evening of the day before the supposed murder was committed. If *an ill tongue* and the horrible menaces sometimes employed by persons like Reid were in all cases to be taken as indicative of the *animus* by which they were actuated, there are few inhabitants of our closes and wynds who would stand clear of an imputation of murder, on any occasion of death which took place among their associates.

8. But, according to the Witness CHISHOLM, Mrs Reid was accustomed to complain that Reid did actually sometimes strike her on the head ; the Witness

ARNOT deposed that he had heard her say, "He's aye knocking me on the head, and he'll kill me some day;" and the Witnesses ISOBEL YOUNG and Mrs FIFE stated that she was in the habit of crying out as if struck, and that about twelve o'clock on the night before the supposed murder, she was heard, soon after he had told her to "lie yont," or nearer to the wall, to exclaim, "Don't hit me on the head—take my life at once." It is extremely singular however that no one of the above-mentioned Witnesses, nor any other of the numerous persons who appear to have lived almost in common with Reid and his wife, deposed to ever having *seen* him strike her—they only *heard* her occasional complaints and exclamations; and if it be admitted that she had a disease of the upper cervical vertebræ—as already supposed, and as will in future be rendered more than probable—since it is a characteristic mark of such a disease for the sufferer to feel acute pain, and to apprehend fatal injury from the slightest collision of any thing with the head, all these may be easily accounted for without the presumption of her having suffered any actual violence. The last and most appalling of these expressions was used when the parties were in bed together with their child, and when it is not only extremely improbable that any violence whatever was employed, but certain that it was not of a murderous description, since she was certainly alive, and was heard to speak, as appears from the confident statement of ISOBEL YOUNG, at nine o'clock on the following morning. And if in this instance she cried out murder, when probably all that she sustained was a slight push in order to make her lie further off, or

perhaps to awaken her, and prevent the common effects of the infirmity just spoken of, * all her complaints and exclamations at other times sink into nothing: she was probably worse at this time than common, from the fatigue which, as we shall presently find, she had undergone the preceding day, and therefore more sensible of the least impulse, and more apprehensive of danger than usual. It appears further improbable, from Reid's general character, that he was really cruel to his wife. The Witness JOHN PIGGOT, who had known Reid for several years, and lived in the same "land" with him, "never saw any thing but harmlessness about him;" and Mrs LENNY who had likewise been for some time his neighbour, never regarded him as otherwise than "a simple man." And indeed Mrs Reid's complaints of him do not appear to have been very consistent, since Mrs FINLAY or SMITH, to whom she seems to have unfolded all her troubles, distinctly states that "she never complained of her husband."

9. And with respect to the agitation of the Prisoner when taxed with the murder, soon after the discovery of the corpse, what does this amount to? To YOUNG and MANNERS, in answer to their interrogatories as to whether he had not done any thing to his wife, he replied, "No, as sure as God is in heaven;" but when taxed with the murder by JOHN ARNOT, the Witness and Mrs TOD "*thought* he turned a little white." And what if he did? There is many an innocent man who would have done the same under a similar imputation. It was after this that he used

* This is the statement made by the Prisoner, in his declaration before the Sheriff, on the 27th of September.

the ambiguous expressions, in answer to a question by Mr GRIEVE of what complaint his wife had died, "We must not tell all things," and "all things go as they come;" and, supposing these words *to be* ambiguous, * what was more natural than for a drunken man, as he then was, under such circumstances, to affect great circumspection in his discourse, and to have recourse to the wise words and dark sayings in question? The answers savour much more of the mock solemnity of a fool, than of the crafty purpose of a villain, and are very different from what we should expect from one who had committed murder, and who would have felt that such expressions were calculated to excite, not to allay suspicion. And a similar remark may be made with respect to his subsequent declaration of satisfaction at being released from his wife. When first aware of her death he was very much affected and "concerned-like," as stated by Mrs CRICHTON, Mrs LENNY, WILLIAM DUNCAN and others; and, according to Mrs TOD, shed tears so copiously that they streamed down his cheeks. Now these tears were either real or affected. If they were real, it is most improbable that Reid had committed the murder imputed to him; if they were affected, it is most improbable that he would, had he been a murderer, so soon afterwards have made the above declaration, which was so inconsistent with them. The fact appears to be that the tears which the man at first shed were the instinctive expression of emotion at the loss of a woman to whom he had

* It has been imagined that Reid, in these replies, alluded to the infirmity of his wife, above spoken of; and in this sense the words are simply absurd—they cease to be ambiguous.

been united for twenty-four years, and that the declaration afterwards made sprung from a rational conviction that this paralytic, miserable woman had really been, as he said, "a burden to him and to every person else." That these tears could have been immediately commanded by a guilty man, or even that they would have been sought for by one at the time very much intoxicated, is almost incredible; but admitting that he possessed sufficient self-possession and art to produce these tears, he would surely have possessed too much so soon afterwards to pull off the mask, and to make a remark, not only so inconsistent with the farce which he had been previously playing, but so well adapted to strengthen any prejudice which might exist against him. His subsequent expression to Mrs TOD of regret at not having treated his wife worse than he had done is precisely what might have been expected from a low, drunken fellow, when goaded by the manifestations of suspicions which he felt that he had not deserved, but the last thing in the world to be expected from one who had actually committed the murder of which he was suspected.

10. And the absence of any distinct purpose of deception is equally obvious from his denial at one time of having been at home at two o'clock, which, so far from tending to criminate him, serves, in my mind, rather to exonerate him from any suspicions which the rest of his demeanour might have excited. It appeared in evidence that it was in immediate consequence of this visit to his house at two o'clock, that he applied to Mrs TOD to come over to the assistance of his wife; so that his assertion of not having been at home at this time, which—as connected with the pe-

cular posture in which the corpse of his wife was found, and in which he pretty certainly then placed it—has been considered of so much importance, carried with it its own refutation. He was drunk and agitated, and neither knew at the time what he was doing, nor afterwards what he had done; and while this falsehood is thus easily attributable to the general perturbation into which his own intemperance and this unfortunate business together had thrown him, it indicates an absence of *dole* in this matter quite incompatible with the deep design which he is presumed to have displayed in other respects.

11. Again, how perfectly natural was the solicitude of Reid, occupying, as he did, with his child a single, miserable room, to have the loathsome remains of his wife as soon as possible removed, or at least concealed in a coffin. Was it to be expected that he should submit a moment longer than was necessary to be surrounded by the horrors of death, in addition to the filth and vermin by which he had been so long annoyed and exasperated? It is all very well for persons enjoying every comfort and luxury, and who can *afford*, not only to cherish every finer feeling, but to subscribe to all the pomp and circumstance of civilized life, to talk of the coarseness and indecency of Reid's conduct in seeking so soon to immure his deceased wife, and to infer from that a presumption that he had murdered her; but this circumstance can have no weight whatever on the minds of persons in the least degree versed in the history of the squalid wretches to the class of which he belonged. He thought only of his abject misery, and the means of alleviating it.

12. Lastly, with respect to his alleged confession of the murder to the officer who apprehended him on the Monday, on his return to Dysart after his visit to Edinburgh. When first apprehended he manifested great surprise, and asked, "What is't—what is't?" And it was proved in evidence that he had been urged to this confession by the hope so unwarrantably held out to him by the officer, who desired him to say "he had got a dram, and confess he did it, and he would get off," while he was "sure to be hanged," he was told, if he denied it. This is distinctly stated by Mrs GRAY OF SMITH, the jailor of Kirkcaldy, and by MICHAEL SLATER, sheriff-officer. Reid was a weak, muddled creature, in the hands of officers of justice—alone and unadvised—and he believed them. Accordingly when he was examined before the Justice of the Peace on the same day, he positively denied murdering his wife, and mentioned the reason why he had made a different statement to the officer. The mere circumstance indeed of his having returned from Edinburgh to the seat of the supposed murder, when he might so easily have absconded, is a presumptive proof of his innocence. Had he been a murderer he either never would have returned, or, had he returned, he would have been better prepared to meet the snare thus laid for him, and to have escaped it.

Such then are the principal alleged moral evidences of Reid's guilt. Singly or collectively they prove nothing more than that he was a poor, stupid creature, who had become an idler and a drunkard from the wretchedness of his home, and who lived on no worse terms with his wife than thousands of

others in the same rank of life, who have not the same excuse for their dissipation. I have said nothing of the opportunities which he had for the commission of the crime with which he was charged, since the circumstance of his having had these opportunities does not in the least strengthen the presumption against him—it only deprives him of the strongest possible argument on the opposite side. That abundant opportunity was afforded him for committing the murder in the manner supposed at a little after nine o'clock, and of placing the corpse in the attitude described at two, is unquestionable; but his having had these opportunities of doing what is imputed to him furnishes no manner of proof that he availed himself of them. And when we reflect that the neighbours, and in particular JOHN FIFE and his wife, who could distinguish every sound in Reid's room, and were taking their breakfast at nine o'clock, heard no sort of noise or scuffle; that Reid's little girl, a child of seven years old, was in the apartment during the whole time of this visit, and was met immediately afterwards by ISOBEL YOUNG on the stairs with her father, not betraying the least agitation; and that Reid, after remaining half an hour in the house, left it quietly and composedly with his child,* and, upon rejoining DUNCAN

* Some stress has been laid upon the circumstance of Reid having, on this occasion, taken the key of his house with him. But it appears that it was not very unusual with him to do so; and it is certainly difficult to conceive why he should have preferred, had he committed the murder, allowing the circumstance of his wife's death to transpire in a manner so well calculated to raise suspicions against himself, to incurring the risk of her being found dead

at ten o'clock, displayed nothing whatever unusual in his manner, the presumption is that such opportunities were not so employed, and that the death of his wife took place at some time between these two periods from natural causes. Nor is it at all incumbent on those who adopt this opinion to show what these causes were. It is quite sufficient to have entitled the Prisoner to an acquittal, to neutralize, as was done, the testimony against him : but when, in addition to this, we find that it was rendered in the course of the Trial highly probable, not only that this woman had died a natural death, but that such an event might have been rationally expected almost precisely at the time it occurred, there is surely no one who will grudge him the very equivocal verdict which was passed upon him, while some will perhaps think that the verdict of "Not guilty" might have been mercifully substituted for that of "Not proven."

It was proved in evidence that the deceased was fifty-six years of age, and accustomed to miserably poor fare—that she confessed to having had an attack of palsy (TOD)—that her head shook (NESS, Mrs FIFE)—that her voice was feeble and querulous (Mrs FIFE)—that in walking she inclined very much to one side (YOUNG, CRICHTON, Mrs FIFE and others)—and that she was in the habit of passing all her natural discharges in bed, alleging that she could not help it. (YOUNG) She was constantly putting her hand to her head, (ARNOT) and complaining of in her bed during his absence, which would have been looked upon probably as a mere every-day occurrence.

pain both in the head, (YOUNG, CHISHOLM, CRICHTON &c.) and in the back, (CRICHTON) and was in every respect “ a silly, weakly woman” (NESS) —“ silly both in body and mind.” (JAMES FIFE) Now what would any medical man say was this woman’s complaint? If he were called upon to describe the symptoms of a diseased state of the vertebral column involving the functions of the spinal cord and brain, he could hardly do better—as may be inferred from the evidence of Drs ROBERTSON and MACKINTOSH and Professor LIZARS—than enumerate those manifested by this unfortunate woman; and her apprehension of the most imminent danger from the slightest impulse affecting her head is further characteristic of the same disease, and leads to the belief that its principal seat was about the vertebra dentata and atlas. But, while we admit these facts, it may be objected to them as furnishing any evidence of Reid’s innocence, that the primary cause of the disease which they indicate, as well as the immediate cause of death, might be the violence which she suffered from her husband; but—not to recur to the very inadequate evidence on which the presumption of any such violence rests—it is more than questionable whether any habitual violence could have induced a chronic disease of this description, however competent an individual act of violence might be to occasion death. Further, Mrs Reid some weeks before her death suffered a spontaneous attack, from which she became speechless; (YOUNG, CRICHTON) the body was quite cold and the limbs stiff—so much so, that it was with great difficulty that they changed her linen—and it was

believed that she was dead. Who can doubt that this was an attack of spinal apoplexy, which is quite consistent, as indeed is cerebral apoplexy also, with a perfectly healthy appearance of the brain? Had the woman died at this time, if the fit had seized her in any other than the horizontal posture, who can say in what extraordinary attitude the limbs might have been found; who can question that had the corpse been placed afterwards on the back, livid marks would, after a time, have displayed themselves on the skin of the neck and spine; and where is the improbability that, presuming the attack to have originated in a diseased state of the vertebral column, a very slight wrench or other violence would have afterwards occasioned a fracture or luxation of this part? It was precisely this in all probability which was destined afterwards to occur. From the attack which she at this time experienced she never entirely recovered. She became more frail, and more querulous; (CRICHTON, LENNY) and what medical man would not now have said that her life hung by a thread, or would have been surprised if she had, at no distant period, a second attack, which should suddenly finish her miserable existence? On the day preceding that on which she died she had hobbled, according to one account, (FINLAY or SMITH) to Colddeans, above Kirkcaldy, more than two miles from her own residence, according to another, (CHISHOLM) as far as Clunie's Square, four or five miles off. She was seen at Kirkcaldy, on her return, by Mrs GRAY or SMITH, the jailor, inclining more than usually to one side, "all shaking," and apparently so exhausted that the Witness "did not think she could go much further." On arriving

at Pathhead she was seen by LENNY, FINLAY or SMITH, HENRY RUSSELL and others, who severally deposed that she was on that evening walking so much to one side that one arm almost touched the ground, and the clothes on that side were hanging off the shoulder—that she looked sickly and “gorged”—that she put her hand to her head, as if to support it—that she complained of being very much fatigued, and of the pain in the back being very sore—and that she expressed an apprehension that she had had another attack of “that trouble,” and that she was going to die! What assemblage of exciting causes and symptoms could have indicated, in such a subject, a rapidly approaching dissolution, if this did not; and would it not have been to any medical man a matter of greater surprise if she had not been carried off within the next twenty-four hours, than it could be that she was so? It was in the course of this night that she was heard to utter complaints of violence offered to her head, and to beg to be killed outright—exclamations which, taken in conjunction with the immediately preceding symptoms, indicated only an aggravation of her malady; and where is the wonder that, in attempting to rise on the following day, a paroxysm like that which she had recently experienced terminated at once her sufferings and her life? If this woman were murdered, it was, by the most wonderful of all coincidences, almost at the very instant that her demise from natural causes might have been predicted*.

* The following is the description given by Mr LAWRENCE, after RUST, of the symptoms attending a displacement of the atlas by disease. “*Pain in the neck, becoming more severe at night, or*

I presume not to determine whether this were or were not the case. Perhaps there were, as remarked by his Majesty's Solicitor-General, ample grounds

in swallowing a large mouthful, or drawing a deep breath, is the first symptom. This pain affects one side of the neck, especially when the head is moved towards the shoulder: it extends from the larynx towards the nape, and *often to the scapula of the pained side*. No external alteration is perceptible, but *firm pressure on the region of the first and second vertebræ produces considerable pain*, and thus points out the seat of the disease. The difficulty of swallowing and breathing, and hoarseness increase, alternating with pain in the neck, which *seems to fix about the back of the head, and becomes intolerable on moving that part*. The head sinks towards one shoulder, the face being turned a little down; for in general the articulations are affected on one side only, and that was the left in seven out of nine examinations after death. If both sides are affected, the head will incline directly forwards. In this state things *continue for several weeks or months*; and before worse symptoms come on, there is often apparent improvement, freer motion and more natural situation of the head. But the *uneasiness in speaking* and swallowing returns, *the pain becomes more severe and extensive*, the head *falls a little backwards*, and sinks towards the opposite side. The patient *feels as if the head were too heavy, and he carefully supports it with his hands* when he moves from the sitting to the lying posture, or vice versa. This may be considered a pathognomonic symptom of the affection. Another symptom which at this period shows the true nature of the disease, is a peculiar *expression of pain on the countenance*, which, combined with the position and stiffness of the head, constitutes so characteristic an assemblage of appearances, that it is enough to have seen it once, in order to recognise it again immediately. In the further progress of the case, noise in the head, deafness, *giddiness, cramps and convulsions, partial paralysis*, particularly of the upper limbs, *loss of voice*, purulent expectorations and hectic symptoms supervene. Generally no external change is observable either in the neck or in the nape, and RUST observed in one case only swelling of the affected side, which broke and left fistulous ulcers. But *the slightest pressure in the region of the upper vertebræ is acutely painful*; and sometimes, in the

for justifying the indictment laid against Reid ; but I repeat what I began with, that there never was a case in which the evidence for the prosecution was more meagre, incongruous and disgraceful, while there certainly have been few which developed a concatenation of circumstances in favour of the presumption of the innocence of the accused more full, more consistent or more satisfactory. The foundation stone of the whole edifice against the Prisoner was the bare word of one who was at once morally unqualified, and legally unauthorized to speak to any medical question whatever—of one grossly ignorant and unblushingly false, and whose only manifestation of common sense was his anxiety, as indicated by a succession of the most pitiful subterfuges, to avoid an exposure to which his shameless usurpation of an honourable and responsible post had subjected him. Not only were the depositions of this man entirely unsupported, but almost every word uttered by his coadjutor goes to disprove what he had asserted. And of what was the next part of the fabric—which

advanced period of the disease, A GRATING OF ROUGH SURFACES IS DISTINCTLY PERCEPTIBLE WHEN THE HEAD IS TURNED. *The patient may continue for months in this helpless and painful state, and then dies either from exhaustion and debility, or, which is more frequent, suddenly and unexpectedly.*" (Medico-Chirurgical Transactions, vol. xiii. p. 406.) In commenting upon this account of the disease in question, Mr SAMUEL COOPER adds, " In cases of this description the joint between the atlas and occiput is never the only one which is displaced and deformed, unless the disease be very slightly advanced ; for *the articulation of the processus dentatus with the atlas, and sometimes that of the point of the same process with the occiput, are considerably affected.*" (Dictionary of Surgery, ed. 1830, p. 392.)

however without the foundation stone in question could have availed nothing—of what was this composed? Namely of the statements of another, who however legally authorized he might be to substantiate a medical fact, or to deliver a medical opinion, conducted the *post mortem* examination, as deposed by all the Medical Witnesses for the Prisoner, in such a manner as not to warrant the slightest reliance being placed upon it in the formation of any opinion as to the cause of death, and to draw from one of them the declaration that he “was quite ashamed of it.” Such was the basis on which the conclusions of the other Medical Witnesses for the Crown were founded, and with this basis their conclusions must either stand or fall. Be it remembered also that the opinions of the Medical Witnesses for the Crown were founded on proof adduced on *one* side only, while the opinions of the Prisoner’s Medical Witnesses embraced the evidence led on *both* sides; and a very great number of important facts, such as the total want of discoloration at eight o’clock on the Saturday, the sore on the head, the attack which the deceased had previously experienced, her frail state on the day before her death, and many others—all which should have been taken into account in forming a full and fair opinion on the subject—transpired only or chiefly in the course of the exculpatory evidence. In conclusion I must observe that, whatever trivial inaccuracies may have been fallen into by the Medical Witnesses for the Prisoner, they sink into less than nothing when compared with the fundamental failures of the opposite party. To omit the barefaced falsehoods above stated, such a display of helpless ignorance, of

reckless negligence and of glaring inconsistency as this Trial affords is perhaps unprecedented in the annals of modern medical jurisprudence ; and, whoever may be the parties who choose to mix themselves up with persons capable of making such a display, they must not expect to be held blameless. In this case I have very unwillingly found myself opposed in sentiment to men for whose talents and acquirements I have a very sincere respect : but no consideration shall ever deter me from forming and acting upon my own opinion ; and I hope and believe that the public, now in possession of the real circumstances of the case, will allow that, in this instance at least, the conclusions of these gentlemen were no less justly questioned, than they were successfully resisted.

FINIS.

