HORRID MURDERS IN EDINBURGH.

PRATT'S EDITION.

THE

TRIAL

OF

WM. BURKE & HELEN M'DOUGAL,

On Wednesday, December 24th. 1828,

In the High Court of Justiciary,

Before the RIGHT HONOURABLE LORD CHIEF JUSTICE CLERK, and LORDS PITMILLY, MEADOWBANK, and MACKENZIE,

On an Indictment for the

Wilful Murder

OF

MARY PATTERSON, JAMES WILSON and MADGY M'GONEGAL,

Between the 7th. and 16th. of April, the 5th. and 26th. of October, and on the 31st. of October, 1828,

In the Canongate and West Port,

EDINBURGH.

FOR THE PURPOSE OF SALE

TO THE MEDICAL FACULTY.

WITH PORTRAITS OF THE PRISONERS.

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INTRODUCTION.

Three distinct murders of unparalleled atrocity have now undergone a final investigation, and the convicted culprit consigned to that punishment, which, in all civilized nations, is awarded to a crime committed under circumstances less abhorrent to the feelings of human nature. There have been times and nations, where every man's life had its market price, where the murderer was mulcted according to the scale laid down by the laws, and escaped personal punishment by the intervention of his purse. But we can scarcely imagine that a case like this, one which, indeed, could not have been thought of, would have been classed among the less horrible of high crimes, or that the wealth or rank of the murderer would have saved him from death by the hands of the executioner.

Murder, as simply defined, is the unlawful taking away of the life of another, and includes various degrees of enormity. Perhaps, all murders according to the definition, are equal in the eyes of a Draco, and, indeed, they are so treated by our laws; but as the bulk of mankind is constituted, there are circumstances which make one crime of this description still more horrible than another. The man who blows out the brains of another, excites somewhat less aversion than he who commits the same crime by cutting the throat of a fellow creature; and he who attains his end by starving a wife to death,* or by whipping a child to death,† in almost all cases draws upon himself more indignation than either. The fact is, we do not look upon each individual murder merely as the unlawful taking away of a life, but we invariably associate with it all its concomitant circumstances. To society, as an infraction of its laws, all murders are equal; but the degree of cruelty exercised towards the sufferer, and the situation in which the murdered and the murderer stand with regard to each other, make a wonderful distinction in the nature of the crime. The man who kills his parent is undoubtedly a more guilty man than one who slays an indifferent person. The first laws of Rome contained no enactment for the punishment of such a crime; the occurrence of such a crime, although instances might be found among some of the Grecian and the barbarian states, was not once imagined.

On whomsoever inflicted, and by what means soever effected, the crime itself is still the same; yet, as there are circumstances preceding the perpetration, which heighten the horror of the catastrophe, so there are others succeeding the fatal stroke, which create a distinction that cannot be attended to by human laws, and which equally shock the human mind, although the sufferer can have been no longer sensible to them. When Hayes quartered the body of her husband, whose murder itself was of the milder kind, the whole nation found its feelings outraged; when Gardelle endeavoured to conceal his crime by burning the limbs of his victim, its indignation was so much roused, that the murderer was threatened with violence on his way to execution.

The case of Ogilvie and Nairne, to which one of the advocates alludes in the course of the following trial, although a most atrocious one, excited merely *interest*, as the phrase is. An adulterous and al-

* King against Williams.

† King against Brownrigg, wife, and son.—*Sessions Papers*, 17——.

most incestuous intercourse, followed by the murder of a worthy man, formed the offence against society; but yet, judging from the public prints of the time, no particular feeling of resentment prevailed; and, at one period, the privy council manifested so much unwillingness to return the warrant for Lieutenant Ogilvie's execution, that the general opinion was that he would be pardoned. And why was this? No circumstances of horror, more than any other murder, attended the commission of the crime; and the intercourse, subsequently proved to have subsisted between him and Nairne, was not believed.

The means, sometimes taken by the murderer, to conceal the body, are found to aggravate his offence in the eyes of the public, as in the cases of Hayes and Gardelle. To these we add that of the Maynards. These women, having kept in their possession the body of a murdered girl, until the progress of decomposition rendered it necessary to dispose of the remains so as to prevent detection, conveyed them to a common sewer, where they were found by a watchman. The coroner, conceiving they had been deposited there from one of the hospitals, refused to hold an inquest, and the matter rested for some months. When the affair came to light, the public mind was as much agitated as it had before been by other atrocities. In this respect there seems to be more feeling towards the senseless carcase of a murdered creature, than sympathy for the fate of the living being.

In the whole course of the unfortunately too copious pages of the annals of crime, nothing is to be found like that which gave occasion to the following investigation. There is nothing which has given rise to so much horror and disgust at the crime, so much detestation of the villains by whom it was perpetrated. If we analyse it, there seems to be nothing peculiarly more heinous than in any other murder. The deed is effected by strangulation, and so was Malcolm's; this is the murder. The object is benefit, and it is so in all others. The body is sold to the surgeons, while those of other murdered persons are concealed, accordingly as the murderer's circumstances allow; some by burning, some by burying, and some by natural decomposition in secret places. It is the reduction of murder to a system which has operated on the public mind, and produced so much, at once, of horror and astonishment.

While on this subject we cannot but refer to a case which has just occurred, and which, as a systematic mode of obtaining a livelihood by murder and rapine, is analagous to the West Port murders. On the 14th of December there were two parties, one Scotch and the other Irish, on board the Glasgow steam packet. "The Irish party invited the two highlanders to drink with them, and while they were enjoying themselves, a quantity of laudanum was infused into the glass of Robert Lamond (one of the Irish party), and he expired of its effects on Tuesday morning." On searching the Scotch party, £20. of the deceased's property, together with a bottle, which was supposed to have contained the poison, were found. "On the 25th of May last," says the same account, "a man came by his death in a house in the Trongate, in the same mysterious manner; and on the 19th of October, another man was murdered in the same manner in the Bridge-gate." The Glasgow Herald says, "a fixed belief exists among some people here, who have the best opportunity of judging, that the above persons make a livelihood by the commission of murder and robbery; that they may have been the same wretches who were concerned in poisoning a man who came off the Glasgow coach, on its *landing* in Edinburgh, about ten months ago; and that there is a strong presumption that both of them were concerned in depriving of life the two men mentioned above."

The Editor of the *Edinburgh Observer* has the following appropriate observations, on the West Port murders :—" The guilt of these criminals is no longer a matter of conjecture. One of them has been fully convicted of one of the heinous offences laid to his charge, and received sentence of condemnation. The other has escaped a similar fate by a verdict of " Not Proven ;" but the evidence which we this day publish, is of such a complexion as to leave no doubt as to the fact of her having been accessary to the crime for which her associate is to die,—although the Jury, regarding her as the lesser offender, have mercifully absolved her from the same terrible penalty. Public anticipation was greatly excited previous to the trial; but we believe the atrocities disclosed in Court have more than realized the most romantic speculations. A more frightful instance of human turpitude never, perhaps, was detected among a Christian people; and the mind, rendered credulous by the magnitude of the crimes alleged, broods in horror over those scenes of iniquity which a veil, interposed by the nic edistinctions of the penal law, still shrouds in mystery. The criminals were indicted for no less than three separate acts of murder; but the conjunction of the crimes enumerated in the indictment was held to be prejudicial, and the culprits were tried only on one charge, with the understanding that the others were to be discussed *seriatim*. That, of corurse, is now unnecessary, as the law has already marked out its victim. Burke and the wretched woman who was tried along with him were not married, as is generally understood. How long they have lived by the flagitious traffic of murdering, and selling the remains of their fellow-creatures, is unknown; but it is certain that the former, and Hare, one of the *socii criminis*, by whose evidence he has been partly convicted, have been jointly engaged in deeds of blood for at least a year. Sometimes one was the principal, and sometimes the other; and it would appear that their houses alternately served as shambles for their systematic butcheries. It is some satisfaction to outraged humanity that vengeance was not slow to overtake them.* The evidence of Hare and his wife on the trial was singularly revolting. The former is one of those villanously-favoured ruffians, whom nature has stamped with the impress of guilt—contemptible in figure—meanly repulsive in features—and grovellingly earnest to preserve his ignominious life. The latter has something of vulgar smartness about her, but her face indicates the same moral debasement; and as the learned counsel justly remarked, she seemed to regard the miserable child she held in her arms, with more of malignity than of motherly affection. We believe there was not a single individual, who heard these reptiles repeat their tale of guilt, who did not lament that the ends of justice could not be otherwise advanced, than by allowing them to appear in the witness-box instead of at the bar. But a day of retribution is yet in reserve. They go forth into the world with a brand which shall point them out as objects of horror, even to the meanest wretch that sweeps the kennel for subsistence.

* How can it be said not to have been *slow*, when, from the examination of Hare, it is clear that they had carried on their traffic for some time.—EDIT.

We have only one additional remark to make. It is a fact honourable to the Scottish bar, that on this occasion, the most eminent of its members, viewing the case as one in which the utmost circumspection was requisite, in consequence of the agitation of the public mind, came forward, and gratuitously exerted their splendid talents, to obviate, as far as might be, the hazard of human feelings militating unduly against the accused. Never did these great men make a prouder display of the professional abilities that have rendered them so illustrious; and if they failed to satisfy the jury, that, in Burke's case at least, there was the smallest palliative, even that mighty criminal himself has reason to say, "Never was a convicted murderer more ably defended."

ENGLISH AND SCOTTISH CRIMINAL LAWS.

The criminal proceedings in Scotland are much more favourable to the prisoner, or pannel *as he is there termed, than those of England. When the prisoner is brought up to plead to his indictment, he may, if he choose, object to its relevancy, alleging that it states matters which do not apply to his case, or any circumstances, which, he considers, may throw the indictment out of court. And in this first important step, he is assisted by Counsel, who argee the different points which are supposed to invalidate the bill. After a reply from the opposite side, the five judges consider the arguments adduced, and pronounce, mostly* seriatim, *their opinions as to the validity of the indictment. If the prisoner's objections are found to be fatal, of course the indictment is quashed, and, therefore, there is nothing to which he can be called upon to plead.*

By our laws, the prisoner must put in his plea to the indictment, however absurdly and ridicously it may be laid, and however irrelevant the facts alleged in it may be; and this plea, whether of guilt or innocence, must be considered as a virtual acknowledgment that the indictment is relevant: at all events the trial proceeds to a verdict, unless in the course of the examination something turns out by which the indictment is nullified. If it go on to a verdict, and that of guily, the last chance for the prisoner is a motion in arrest of judgment, which is either immediately determined by the presiding judge, or left to the consideration of the twelve judges, whose decision is followed up by judgment and execution of the sentence. Thus the prisoner undergoes the fatigue and anxiety of a trial, and afterwards a suspense of several months, before he learns the result. It is true that he may put in what is called a demurrer; *that is, he may plead* guilty *to the charge generally, and that his conduct has not been contrary to the law particularly applicable to his case.* If the objections are overruled, sentence is passed upon the prisoner in virtue of his plea.*

These are the only chances which are allowed to the English prisoners. The latter, indeed, can scarcely be deemed such, particularly to a man who is conscious of his innocence; for after his plea, the question no longer rests upon the allegations of the indictment, or the facts of the case.

If the counsel for the Scotch prisoner fail in shewing the irrelevancy of the indictment, he must then, and not till then, plead to it,

* See the proceedings *in limine* in the case of Algernon Sydney, *Speech of Judge Jefferis*; STATE TRIALS.

There is more of justice in this course, than in that which requires a prisoner first to confess himself guilty, and then make his objection to the instrument that charges him with the crime for which he is arraigned. The pannel or prisoner having pleaded not guilty, the trial commences, and the evidence is adduced: here again the superiority of Scottish criminal proceedings is manifest: his counsel are allowed to comment on the evidence. The English prisoner, on the closing of the case for the Crown, is always told that now is the time to address the court; but how few of this class of persons are capable by habit, by education, or by talent, of availing themselves of the opportunity! To unravel the web of a false accusation, deliberately formed with the aid of practised legal chicanery, to contrast the conflicting points of evidence, to demonstrate the mistakes of some, and to expose the perjuries of others, require, in most cases, if not a professional education and experience in courts of justice, at least more tact than is to be expected from the prisoner at the bar, who labours too under the great disadvantage of a situation, embarrassing to most, and painful to all. In this respect, then, the English prisoner is but little benefited by his permission to address the court. In Scotland they manage these things better. The counsel for the crown takes the lead, at this stage of the proceedings, and comments upon the evidence; afterwards the prisoner's counsel states his views of the case, and does all that which it is worse than ridiculous to expect from the class of people who are placed at the bar of a court of justice. The Lord Chief Justice Clerk then recapitulates the evidence, commenting, if necessary, upon the arguments of the opposing counsel, and the case goes to the jury, who decide by a majority of opinions, and not, as in England, by a unanimity of opinion among twelve individuals.

The peculiar advantages which the Scotch proceedings possess over the English, will be quickly perceived in the following details of the trial of wretches, who seem scarcely to have deserved any benefit whatever.

TRIAL

OF WILLIAM BURKE AND HELEN M'DOUGAL,

FOR MURDER.

HIGH COURT OF JUSTICIARY,

Wednesday, December 24th., 1828:

BEFORE THE RIGHT HON. THE LORD CHIEF JUSTICE CLERK, AND LORDS PITMILLY, MEADOWBANK, AND MACKENZIE.

Counsel for the Crown.—The Lord Advocate (Sir William Rae, Bart.); Mr. Alison, Mr. Wood, and Mr. Dundas.

Solicitor.—Mr. James Tytler.

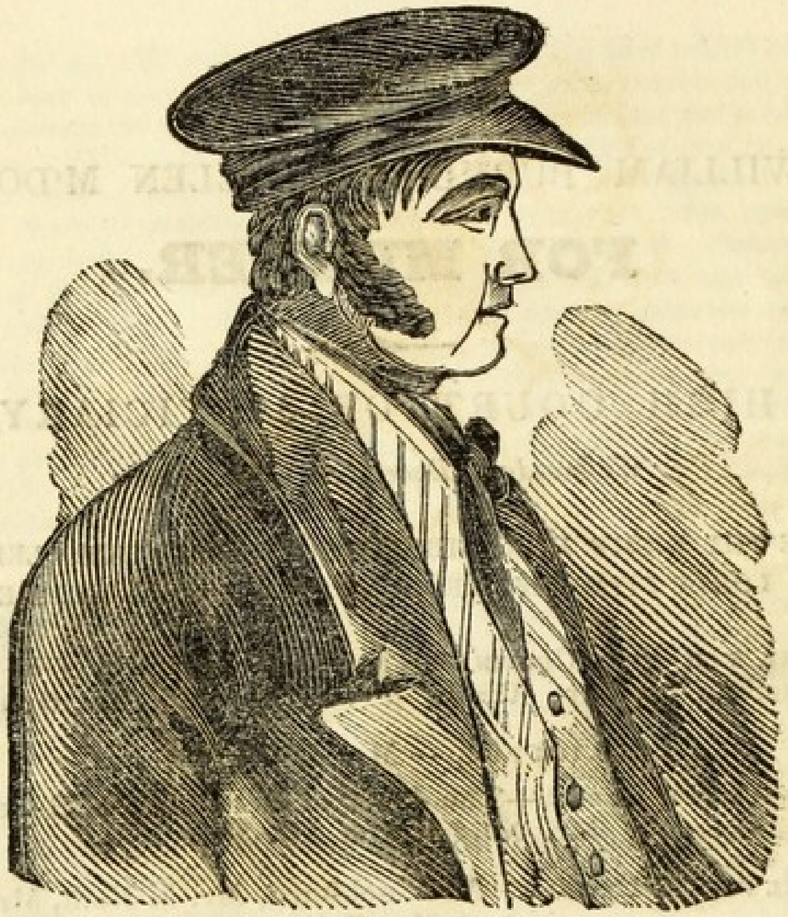
Counsel for Burke.—The Dean of Faculty, Mr. Robertson, Mr. Napier, and Mr. Milne.

Counsel for M'Dougal.—Mr. Cockburn, Mr. M'Neill, Mr. Bruce, and Mr. Patton.

Solicitors.—Messrs. Beveridge and Kinnear.

No trial in the memory of any man now living has excited so deep, universal, and (we may almost add) appaling an interest, as that of William Burke and his female associate, which commenced at ten o'clock on Wednesday forenoon, and lasted till ten o'clock the following day. So early as seven o'clock on Wednesday a considerable crowd had assembled in the Parliament Square, and around the doors of the Court; and numerous applications for admission were made to subordinate functionaries—but in vain. The regulations previously made were most rigorously observed; while a large body of Police which was in attendance, maintained the utmost order, and kept the avenues to the Court unobstructed. The members of the faculty and of the society of writers to the signet were admitted precisely at nine; and thus, with the jurymen impannelled, the Court became at once crowded in every part.

About twenty minutes before ten o'clock, the prisoners, William Burke and Helen M'Dougal, were placed at the bar. The male prisoner, has stated himself to be a native of Ireland. He is a man rather below the middle size, but stoutly made, and of a determined, though not peculiarly sinister expression of countenance. The contour of his face, as well as the features, are decidedly Milesian. It is round with high cheek-bones,—grey eyes a good deal sunk in the head,—a short snubbish nose,—and a round chin; but altogether of a small cast.



WILLIAM BURKE.

His hair and whiskers, which are of a light sandy colour, comported well with the make of the head and the complexion, which is nearly of the same hue; and had, upon the whole, what is called in this country, a *waugh* rather than a ferocious appearance,—though there is a hardness about the features, mixed with an expression in the grey twinkling eyes, far from inviting. His deportment on the whole was firm and collected.—The female prisoner is fully of the middle size, but thin and spare made, though evidently of large bone. Her features are long and the upper half of her face is out of proportion to the lower. She was miserably dressed in a printed cotton shawl, and cotton gown: she stoops considerably in her gait, and as the ordinary look of extreme poverty and misery common to unfortunate females of the same degraded class. We remarked that her hands were singularly white and small for her station—Burke entered the court without any vissible signs of trepidation. His companion appeared to be less collected; and occasionally, during the day, she sighed deeply, and a bitter smile twice or thrice played about her lips,—particularly when Hare and his wife, the *socii criminis*, were under examination. Towards midnight she showed symptoms of lassitude, and at intervals leaned upon her companion's shoulder. Both seemed to attend very closely to the proceedings.

The Court met at precisely a quarter past ten. The Judges present were, the Right Honourable the Lord Chief Justice Clerk, and Lords Pitmally, Meadowbank, and Mackenkie. The prisoners having been called,

HELEN M'DOUGAL.

THE LORD CHIEF JUSTICE—William Burke, and Helen M'Dougal, pay attention to the indictment that is now to be read against you.

Mr. Patrick Robertson—I object to the reading of the indictment. It contains charges which I hope to be able to show your Lordships are incompetent, and the reading of the whole of the libel would tend to prejudice the prisoners at the bar.

THE LORD CHIEF JUSTICE—I am unaccustomed to this mode of procedure. It depends upon the Court whether the indictment shall be read or not.

Mr. Patrick Robertson—Certainly; but I understand it is not necessary to read the indictment; and we object to its being done on the present occasion.

LORD CHIEF JUSTICE—We have found little advantage to result from the practice recently introduced of not reading the indictment,—as it has rendered constant explanations necessary, and consumes more time the one way than the other.

Mr. Cockburn—We object to its being read, because it is calculated to prejudice the prisoner. Our statement is, that it contains charges, the reading of which cannot fail to operate against him, and that these charges make no legal part of the libel.

LORD MEADOWBANK.—I am against novelties; I am against interfering with the discretion of the Court.

The indictment was then read as follows :—

" William Burke and Helen M'Dougal, both present prisoners in the Tolbooth of Edinburgh, you are indicted and accused at the instance of Sir Wm. Rae, of St. Catherine's, Baronet, his Majesty's Advocate for his Majesty's interest; That albeit by the laws of this and every other well governed realm, murder is a crime of an heinous nature, and severely punishable. Yet true it is, and of verity, that you the said Wm. Burke and Helen M'Dougal are both and each, or one or other of you, guilty of the said crime, actor or art and part; In so far as, on one or other of the days between the 7th and 16th days of April 1828, or on one or other of the days of that month, or of March immediately preceding, or of May immediately following, within the house in Gibb's Close, Canongate, Edinburgh, then and now or lately in the occupation of Constantine Burke, then and now or lately scavenger in the employment of the Edinburgh Police establishment, you the said William Burke did wickedly and feloniously, place or lay your body or person, or part thereof, over or upon the breast or person and face of Mary Patterson or Mitchell, then or recently before that time, or formerly preceding, with Issabella Burnet, or Worthington, then and now or lately residing in Leith-Street, in or near Edinburgh, when she the said Mary Patterson or Mitchell was lying in the said house in a state of intoxication, did by the pressure thereof, and by covering her mouth and nose with your body or person, and forcibly compressing her throat with your hands, and forcibly keeping her down, notwithstanding her resistance, or in some other way to the Prosecutor unknown, preventing her from breathing, suffocate or strangle her; and the said Mary Patterson or Mitchell was thus, by the said means or part thereof, or by some other means or violence, the particulars of which are to the Prosecutor unknown, wickedly bereaved of life by you the said William Burke; and this you did with the wicked aforethought intent of disposing of, or selling the body of the said Mary Patterson or Mitchell, when so murdered, to a physician or surgeon, or some person in the employment of a physician or surgeon, as a subject for dissection, or with some other wicked and felonious intent to the Prosecutor unknown. (2) Further, on one or other of the days, between the 5th and 26th days of October, 1828, or on one or other of the days of that month, or of September immediately preceeding, or of November immediately following, within the house situated in Tanner's Close, Portsburgh, or WesterPortsburgh, in or near Edinburgh, then and now or lately in the occupation of William Haire or Hare, then and now or lately labourer, you the said William Burke did wickedly and feloniously attack and assault James Wilson, commonly called or known by the name of Daft Jamie, then or lately residing in the house of James Downie, then and now or lately porter, and then and now or lately residing in Stevenlaw's Close, High-street, Edinburgh, and did leap or throw yourself upon him, when the said James Wilson was lying in the said house; and he having sprung up, you did struggle with him, and did bring him to the ground, and you did place or lay your body or person, or part thereof, over or upon the person or body and face of the said James Wilson, and did by the pressure thereof, and by covering his mouth and nose with your person or body, and forcibly keeping him down and compressing his mouth, nose, and throat, notwithstanding every resistance on his part, and thereby, or in some other manner to the Prosecutor unknown, preventing him from breathing, suffocate or strangle him; and the said James Wilson was thus by the said means, or part of them, or by some other means or violence, the particulars of which are to the Prosecutor unknown, wickedly bereaved of life and murdered by you the said William Burke; and this you did with the wicked aforethought intent of disposing of or selling the body of the said James Wilson, when so murdered, to a physician or surgeon, or to some person in the employment of a physician or surgeon, as a subject for dissection, or with some other wicked and felonious intent or purpose to the Prosecutor unknown. (3) Further, on Friday the 31st day of October, 1828, or on one or other of the days of that month, or of September immediately preceding, or of November immediately following, within the house then or lately occupied by you the said Wm. Burke, situated in that street of Portsburgh, or Wester Portsburgh, in or near Edinburgh, which runs from the Grass Market of Edinburgh to Main Point, in or near Edinburgh, and on the north side of the said street, and having an access thereto by a trance or passage, entering from the street last above libelled, and having also an entrance from a court or back court on the north thereof, the name of which is to the Prosecutor unknown, you the said William Burke and Helen M'Dougal, did both and each, or one or other of you, wickedly and feloniously place or lay your bodies, or persons, or part thereof, or the body or person, or part thereof of one or other of you, over or upon the person or body and face of Madgy, or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, then or lately residing in the house of Roderick Stewart or Stuart, then and now or lately labourer, and then and now or lately residing in the Pleasance, in or near Edinburgh, when she the said Madgy, or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, was lying on the ground, and did, by the pressure thereof, and by covering her mouth and the rest of her face with your bodies or persons, or the body or person of one or other of you, and by grasping her by the throat, and keeping her mouth and nortrils shut, with your hands; and thereby, or in some other way to the Prosecutor unknown, preventing her from breathing, suffocate or strangle her; and the said Madgy, or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, was thus, by the said means, or part thereof, or by some other means or violence, the particulars of which are to the Prosecutor unknown, wickedly bereaved of life, and murdered by you the said William Burke, and you the said Helen M'Dougal, or one or other of you; and thus you, both and each, or one or other of you, did, with the wicked aforethought intent of disposing of or selling the body of the said Madgy, or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, when so murdered, to a physician or surgeon, or to some person in the employment of a physician or surgeon, as a subject for dissection, or with some other wicked and felonious intent or purpose to the Prosecutor unknown. And you the said William Burke, having been taken before George Tait, Esq. Sheriff-substitute of the shire of Edinburgh, you did in his presence, at Edinburgh, emit and subscribe five several declarations of the dates respectively following, viz. :—The 3rd, 10th, 19th, and 29th days of November, and 4th day of December, 1828; And you, the said Helen M'Dougal, having been taken before the said Sheriff-substitute, you did in his presence, at Edinburgh, emit two several declarations, one upon the 3rd and another on the 10th days of November, 1828: which declarations were each of them respectively subscribed in your presence, by the said Sheriff-substitute, you having declared you could not write; which declarations being to be used in evidence against each of you by whom the same were respectively emitted; as also the skirt of a gown; as also a peticoat; as also a brass snuff-box, and a snuff-spoon, a black coat, a black waistcoat, a pair of moleskin trowsers, and a cotton handkerchief or neckcloth, to all of which sealed labels are now attached, being to be used in evidence against you the said William Burke; as also a coarse linen sheet, a coarse pillow-case, a dark printed cotton gown, a red striped cotton bed-gown, to which a sealed label is now attached; as also a wooden box; as also a plan entitled "Plan of Houses in Wester Portsburgh and Places adjacent," and bearing to be dated Edinburgh, 20th November, 1828, and to be signed by James Braidwood, 22, Society, being all to be used in evidence against both and each of you, the said William Burke and Helen M'Dougal, at your trial, will for that purpose be in due time lodged in the hands of the Clerk of the High Court of Justiciary, before which you are about to be tried, that you may have an opportunity of seeing the same. All of which, or part thereof, being found proven by the verdict of an Assize, or admitted by the respective judicial confessions of you the said William Burke and Helen M'Dougal, &c. you ought to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

Dean of Faculty.—We have given in separate defences, which may as well be now read, beginning with the defence for the male prisoner.

The DEFENCE for *William Burke* was then read as follows :—

The prisoner submits that he is not bound to plead to or to be tried upon a libel, which not only charges him with three unconnected murders, committed each at a different time, and at a different place, but also combines his trial with that of another prisoner, who is not even alleged to have had any concern with two of the offences of which he is accused. Such an accumulation of offences and prisoners is contrary to the general and the better practises of the Court. It is inconsistent with the right principle; and indeed, so far as the prisoner can discover, is altogether unprecedented. It is totally unnecessary for the ends of public justice, and greatly distracts and prejudices the accused in their defence. It is, therefore, submitted,that the libel is completely vitiated by this accumulation, and cannot be maintained as containing a proper criminal charge. On the merits of the case, the prisoner has only to state that he is not guilty, and that he rests his defence on a denial of the facts set forth in the libel.

The DEFENCE for *Helen M'Dougal* was next read as follows:—

If it shall be decided that the prisoner is obliged to answer to this indictment at all, her answer to it is that she is not guilty, and that the Prosecutor cannot prove the facts on which his charge rests. But she humbly submits that she is not bound to plead to it. She is accused of one murder committed in October, 1828, in a house in Portsburgh, and of no other offence. Yet she is placed in an indictment along with a different person, who is accused of other two murders, each of them committed at a different time and at a different place, —it not being alleged that she had any connection with either of these crimes. This accumulation of prisoners and of offences is not necessary for public justice, and exposes the accused to intolerable prejudice, and is not warranted, so far as can be ascertained, even by a single precedent.

Mr. Robertson then addressed the Court in support of the defences. In this indictment there were two prisoners named, but which two prisoners did not appear on the face of it to have any connection with each other. The major proposition contained a simple charge of murder, without specifying any aggravation. In the minor proposition, however, there were three distinct and totally unconnected charges of murder. The first was against Burke alone, and was charged to have been committed in April last, in a house in the Canongate. But it was not stated that he had any accomplices. He was the sole person charged with that offence. It appeared, indeed, from the description of the crime, that he was charged "with the wicked aforethought purpose and intent of disposing of and selling the body, when murdered, as a subject for dissection, or with some other wicked and felonious purpose to the Prosecutor unknown." But, on the one hand, there was no aggravation laid on the major proposition; yet on the other the Prosecutor did not confine himself to one species of intent, but libelled two—the intent to sell the body to the surgeons, and some sort of vague intent to the Prosecutor unknown.—The second article in the indictment charged another murder, alleged to have been committed in the month of October, in a place called Tanner's Close. In this charge also William Burke is the only person accused of that offence, and the intent laid is the same as in the former instance.—Then there was a charge of a third murder, committed at a different place and time, viz. at a house in Portsburgh, on the 31st October,—in which charge both William Burke and Helen M'Dougal were indicted; and after describing the offence, the intent libelled is the same as in the two former cases. Thus we had three murders charged against the prisoners; two against Burke alone, and one against Burke in conjunction with M'Dougal,—all of which were committed at different times and in different places, without any connection whatever between them; and these charges were laid without any aggravation. Then the five declarations by Burke, and two by M'Dougal, were also libelled on, together with eight articles to be adduced as evidence against the former, and six against both; and in addition to all this, they were served with a list of fifty-five witnesses, by which these different and totally unconnected charges were to be proved. Now the question was, whether this charge, involving such an accumulation of unconnected offences, was consistent with our practice, with the humane principles of our law, and with that sound and proper discretion to which the Court was not only entitled, but bound to exercise. But the first and most material point was, whether the prisoners would suffer prejudice by the mode in which the libel had been framed: for if that could be made out, it would justify their Lordships in the exercise of the discretion with which they were entrusted, in separating the charges, or in selecting one prisoner, and postponing another, according to the circumstances of the case. The question then is, whether the prisoners would suffer prejudice in going to trial with the libel as it now stands? And in considering this, it would be observed that it was not charged that there was any natural connection between them. There was certainly none in law; and with the exception of the mode of the murder and the intent, there was not the slightest pretence for saying there was any connection between them. But the intent was not laid absolutely and peremptorily: it was conditional. Either you committed these acts with the aforethought purpose and intent of selling the bodies to the surgeons for dissection, or with some purpose or intent to the Prosecutor unknown. This would compel the Prosecutor to prove that the murder was committed for the purpose of handing over the bodies to dissection; but he might also bring in under it a very different purpose or object,—as, for example, that it was done for the purpose of robbery, or to gratify private revenge. In the major proposition, however, there was no aggravation; and it was not said that there had been any conspiracy,—that these murders were part of a system,—they were laid as three unconnected offences, committed at different times and places. Now he prayed their Lordships to keep in mind that murder was not like any of the other offences which usually occurred in the practice of the criminals;—it was one which in every case when brought home to a prisoner, was visited with the highest punishment of the law; and therefore it, differed from all the offences to which it was sometimes likened, and required greater caution on the part of those by whom it was to be tried. As applicable to the case of Burke, however, three murders were charged; and this charge was calculated in the most serious degree to prejudice him. Each offence, it might be said, would require to be supported by its own specific evidence; but it was impossible to find any jury so dispassionate as not to borrow some light from the one to enable them to decide on the other; it was impossible for the jury to separate the evidence in one case from that in another; it was impossible that one murder not proved could be separated from any light thrown upon it by another not proved,—nay, though neither the one nor the other might be proved, it might be held, that upon the whole, from the massing or blending of unconnected acts, enough was made out to warrant a conviction. And all this was aggravated by the prejudice arising from the manner in which the alleged murders are said to have been committed, and in regard to which so strong a degree of excitement prevailed in the public mind. Then observe the oppression in the preparation of the trial; observe the situation in which the prisoners were placed. Three murders are charged, with a list of fifty-five witnesses, besides seven declarations, five by the one, and two by the other. One set, it might be said, was against one prisoner, and the other against the other;—but it was impossible so to separate, or to analyse the evidence, as not to admit, against the one, evidence which was calculated to affect the other; and by thus mixing up and massing together the whole into an unnecessary accumulation of crime, to come to the same conclusion in regard to both. Look to the case of Helen M'Dougal, and it will be seen the prejudice must operate still more strongly against her. She is accused of only one crime; and it is not said that she had any connection with the others. But this charge of murder, committed in the latter end of October, is brought to trial, combined with two others, committed, one in April, six months previously, and the other in the beginning of October. Where is this to stop? If the Prosecutor is allowed to proceed in this way, may he not on the same principle combine ten murders against ten prisoners, accused of ten different offences, committed in as many different counties? He submitted that there must be some limitation; and the question was, whether the Court could sustain the present charge, by which one individual, accused of one offence, is mixed up with another, accused of two, with which she is not alleged to have had any concern? Imagine this case. At the end of the indictment, eight articles were specified against Burke, and six more against Burke and M'Dougal. Take the first—the skirt of a gown—and suppose it proved against Burke alone. It could not be adduced as evidence against Helen M'Dougal. But suppose it was traced into her possession, and that a witness is called to prove that it belonged to Mary Patterson or Mitchell. This would be conclusive as to her connection with Burke. It may be said that the Judge would tell the jury to strike this out of their notes. This was an easy operation; but could they strike it out of their minds? Then, in what circumstances would Helen M'Dougal be placed? An article not libelled against her would be checkmate to her defence. She would be taken by surprise,—she would be thrown off her guard; and although the gown had come fairly and honestly into her possession, she could produce no evidence to instruct the fact. He put this as an illustration. So far as the female prisoner was concerned it would be fatal. But is this a legal proceeding? If there be a prejudice existing, the prisoner is entitled to the fairest possible defence. The more atrocious the offence, the more guarded and cautious ought to be the modes of procedure. So far, however, as they could discover from the records of the Court, this was the first case in which it had been attempted to charge three murders in the same indictment. There had been several instances of three persons slain at the same time, as in the Aberdeen riots, by a discharge of musketry, and in the case where a whole family was poisoned. These, however, as Mr. Hume observed, were all parts of the same foul and atrocious offence. But there was no example in the history of the Court, of combining three unconnected offences against one person; far less of combining three against one person who was not alleged to have any connection with two of them, and was only implicated in a third, which had no manner of connection with those which preceded. Sir George Mackenzie, who would not be suspected of any partiality to prisoners, laid down the principle most clearly, that no parties ought to be thus combined in an indictment.—The learned counsel then referred to the work of Mr. Hume. That learned author treated merely of connected crimes, as robbery and murder. But no injury was done by this accumulation. They were parts of the same foul and atrocious proceedings, and they have a natural and necessary dependence, and not even an allegation that the prisoners were connected. He then proceeded to the consideration of heterogeneous charges, as of murder and theft.—Some of those, he said, were not cases to be followed at the present day, and he instanced that of Walter Buchanan, who was accused of ten different crimes in one libel; namely, fire-raising, attempts at fire-raising, attempts to poison, theft, reset of theft, the harbouring, out-hounding, and maintaining of thieves and robbers, sorning and levying black-mail, and killing and eating of other people's sheep. Here, however, the Lords restricted the trial to the more special charges. He now came to the principle, and mentioned a case in 1784, when the Lord Advocate did depart from several of the charges.—In conclusion, he referred to the English practice as illustrative of the principle for which he had been contending. By the law of England, two felonies may be combined in one charge against two separate prisoners; but it is usual for the Judge in his discretion to call upon the Prosecutor to make his election, and to proceed with a specific charge against one individual. In point of law they may be combined, but the Judges in their discretion separate them; and for this reason, among others, that the combination would prejudice prisoners in their challenge of the jury.

The Lord Advocate complimenting the learned counsel who had just concluded on the able manner in which he had opened the objections submitted to the consideration of the Court, stated that he thought them ill-founded. His learned friend mixed up two offences together. His first objection was to bringing two prisoners to trial on the same indictment, and his second to charging three different crimes in that indictment. He would deal very shortly with the first. The woman was charged as having been concerned with the man in one of the three murders. But this was sanctioned by the law of the land. He put her in the indictment, that she might *not* be prejudiced. If she had been put into a separate indictment the public would have known the whole evidence before she had been put upon her trial, and the prisoner would have had the best possible reason to complain. This would have been the case had he first brought the man to trial, and afterwards the woman, adducing against the same, or nearly the same evidence, which had previously been adduced against the man. It was to obviate this, and to prevent her from being prejudiced, that he had put her in the same indictment. God forbid, said his Lordship, that any person holding the situation I do, should do any thing to prejudice a prisoner on his trial. The very contrary motive had guided him; but if he proceeded not against the woman to-day, he would ten days hence, when she could not insist on that which she now says will prejudice her. The libel charged three separate acts, and in the major proposition the crime specified was murder without any aggravation. These murders were detached as having taken place within the last six months; but they were all committed in Edinburgh, and are all charged as having been perpetrated with the same intent, which is no aggravation. Murder, indeed, could hardly admit of aggravation. When a prosecutor libels a positive intent, he is tied down to that, and there is no alternative. These cases were all of the same description – all murder, and all committed with the same intent. He admitted, that looking to the proceedings of the Criminal Court, it was the first case of three murders combined in one indictment; but it was a case unprecedented in the annals of this or of any other civilized country.—There were numerous examples, however, where different charges were combined in the same libel. The passage quoted from Sir George Makenzie did not apply to the case before the Court. It referred to a case of a nature totally different. He then quoted Hume, II. 166, and maintained, upon this authority, that the crimes charged, being all of the same name and species, might properly be included in the same indictment. It would indeed be dreadful if a prisoner, after having committed three murders, could only be tried for one of them. Mr. Hume referred to the case of James Inglis, tried upon three charges of horse-stealing, each of which, if proved, involved a capital punishment.—Now, would not every argument which had been employed against the present libel apply to such a charge? Again, two acts of highway robbery were charged in the same indictment, any one of which would have been sufficient if proved, to lead to a capital conviction. The whole tenor of our practice confirmed this mode of procedure; and, if the contrary obtained,—if charges of the same nature and description were put in separate indictments,—prisoners would be exposed to the intolerable hardship of undergoing trial day after day—a hardship which he conceived would be incomparably greater than any that could possibly arise from the practice now complained of. He then referred to the case of Nairne and Ogilvie. Here it had been objected that there was a *cumulatio actionum*, but the objection had been repelled. His Lordship then cited the case of James Morton, tried at the Glasgow Circuit in 1823, on four separate acts; of Donaldson Buchanan tried for stouthrief, housebreaking, and theft, (all separate acts); of Beaumont tried at Aberdeen in 1827, upon no less than nine separate acts of forgery. His Lordship then quoted the case of Surridge and Dempsey, indicted for two separate acts of murder, committed indeed at the short interval of an hour, but still, in all respects, completely separate acts. Upon the strength of these consecutive authorities, all of which went to support the principle for which he contended, his Lordship submitted that the objection ought to be repelled.

The Dean of Faculty—We believe that the Lord Advocate had no object in view but public justice in bringing this case forward. The charges are totally disconnected. One murder is committed in a house occupied by the prisoner; another in another house, not his own; and a third in a different house, and in connexion with a different individual. Supposing the Crown to fail in proving the two first charges, will the jury not be led into a suspicion that an individual accused of such monstrous crimes must be guilty? Is this not a prejudice? This man is tormented and perplexed on five separate examinations, on three separate and confused charges. Is he not thus prejudiced? He may be prejudiced by the challenges of the jurymen. The justice of the case is in our favour. In the case of housebreaking, and other crimes of a similar degree of enormity, may not the libel be restricted? But was it ever heard of, that a public prosecutor restricted the libel in a case of murder? The case is absolutely without precedent; and the antiquated authorities in analogous cases must go for nothing. Before sitting down I would direct your lordships' attention to the objection: and, laying aside the authorities, I say I would call upon you, in the exercise of your prerogative of a sound discretion, not to allow this prisoner to be arraigned upon more charges than one; and I am borne out in asking your lordships, upon the authority of the English judges, who do it every day. [The Dean wound up an eloquent argument, and the judges proceeded to consult before delivering their opinions.]

Lord Pitmilly—The Court is peculiarly circumstanced in being called upon to decide an incidental point before the case is begun. Counsel for the prisoners may urge the point at an after stage in his comments, and the counsel for the Crown may, in like manner, advert to it. The Court must come to consider the case calmly and dispassionately. The first point is the woman being associated with the man in the same indictment, and I am glad the Lord Advocate has adopted the course with regard to her. The second, is the man being charged with three separate murders, committed at three different times, and in different places. I can entertain no doubt on this point. I confess I was struck with the indictment when I saw it, and made myself master of the authorities before coming here. But there is a case in point to which none of the counsel have referred, which was tried before me at Jedburgh, where three murders were charged in one libel, and the prisoner was convicted aud executed; so I have no doubt that there remains the question of discretion, and the Court is not called upon to interfere unless requested. The Advocate must have three trials if he fail in one; and he gains advantages by his very failure, in acquiring knowledge, how to bring the next case to trial. I well remember the case at Aberdeen, in which I was counsel. Some people were indicted for shooting several others at the instance of a private prosecutor; and they being acquitted, the Public Prosecutor raised an indictment, charging the same individuals with another murder, which created the greatest outcry in the country. I am of opinion, however, that in the exercise of discretion, and acting upon the responsibility which the prisoners' counsel must undertake, we should direct the Public Prosecutor to proceed with the charges one by one.

Lord Meadowbank—I concur in all that my brother has said. If we pay regard to the objection of the prisoners' counsel, it would shake to the centre the consistency of the proceedings of this Court. I am astonished that no allusion has been made to the case of Murdochson and another, who were tried upon several charges of sheep-stealing, at different times, and different places. I entertain no doubt that this indictment is well laid. On the question of discretion, the prisoners have made their choice; and on the heads of their counsel the responsibility must rest. This indictment is not to be questioned. We shall sit here and try one charge after another till it is exhausted.

Lord Mackenzie—The Court have a discretion, but they are entitled to consider whether the prisoners are to be benefited by granting what they propose. I, therefore, give my concurrence to what has been proposed.

Lord Chief Justice—I consider the indictment properly framed. Burke is accused of three different crimes, all of the same nature, within the city of Edinburgh or its liberties. Mr. Hume refers to an indictment, charging a variety of different crimes, and thereby embarrassing a prisoner in his defence. In concurring with your lordships, I think that the crown counsel is entitled to select any of the three charges he thinks proper, and proceed to trial.

The Lord Advocate—who had previously stated his determination to desert the diet *pro loco et tempore* against Helen M'Dougal, now said,—I shall proceed upon the last charge in this indictment, that for the murder of the woman Campbell or Duffie or Dogherty, which applies equally to both, and, therefore, the woman must be detained and put upon her trial along with the man.

The Lord Chief Justice now asked the prisoners if they were guilty or not guilty of the 3rd charge—when they both answered "Not Guilty."

The following Jury were then chosen, viz.:

Nicol Allan, Manager of the Hercules Insurance Company, Edinburgh
John Paton, builder, Great King-st. Edinburgh
James French, builder, London-street, Edinburgh
Peter M'Gregor, merchant, Castle-st. Edinburgh
William Bonar, banker, Abercromby Place, Edinburgh
James Banks, agent, Cassillis Place, Leith Walk
James Melliss, merchant, Blair-street, Edinburgh
John Mc Fie, merchant, Leith
Thomas Barker, brewer, Leith
Henry Fenwick, grocer, Dunbar
David Brash, grocer, Coal Hill, Leith
David Hunter, ironmonger, Jamaica-street, Edinburgh
Robert Jeffry, engraver, Milne-square, Edinburgh
William Hell, grocer, Dunbar
William Robertson, Bank-st. Edinburgh

Mr. Braidwood, of the Fire Establishment, identified a plan drawn by him of some houses in West Port, the residence of Burke, and scene of the alleged murder.

Mary Stewart remembers a young man of the name of Michael Campbell coming to her house some time after the harvest—it was before Martinmas. He remained there about two months, and left the house on the Monday before the fast day—the Monday of the fast week. She was lying at the Infirmary at this time; but on returning home she found a woman in her house who, Campbell said, was his mother. She said she had come in search of her son,—giving her name Madgy or Margery Campbell, and said the name of her former husband was Duffie; she said she came from Glasgow. Witness came out of the Infirmary on the fast night, and the woman left the house on the following morning, Friday, the 31st October. It was Hallowe'en. She said when she went out that she was going to see after her son, who had left the house some time before. Knows Charles M'Lauchlin, who is a witness, and who slept with Campbell's son. In so far as witness knows, M'Lauchlin and Mrs Campbell went out together; and she never saw her again until she saw her body in the Police Office. Witness thinks she left the house between seven and eight in the morning; but she has since been informed it was farther on in the day. It was the Sabbath following that she saw her dead body in the Police Office; had no difficulty in recognising it. The woman left the house dressed in a black bombazet petticoat, an old much-patched stripped gown next her waistcoat, and dark printed gown with short sleeves, and open before, and in some places sewed with white thread. Identifies the rags which the poor woman had worn when she left witness's house.

By the Court.—Supposes Mrs. Campbell to have been between 40 and 50. She was a little broad set woman, and appeared in good health. Never saw her the worse of liquor.

Charles M'Lauchlin resided in October last in the house of the preceding witness; and recollects Michael Campbell being there for five weeks about that time. He left it on the 30th. A woman who was represented as Campbell's mother came to the house while her son was there. Mrs. Stewart was then in the Infirmary. The woman gave her maiden name as Margery M'Gonegal. She was called after a first husband, and sometimes Duffie, after a second husband. Witness had known her in Donegal in Ireland. She remained some days at Stewart's, and went away the last time on Friday the 31st October, between the hours of nine and ten o'clock in the morning. Witness parted with her at the foot of St. Mary's Wynd. She did not say where she was going to; for she had lost sight of her son, and intended to leave town. She had come to town in search of her son. She was then in good health, and had been so all the while. She had been in Stewart's—she was sober and seemed to be of sober habits. Did not think that she had any money; but never heard her complain of want, nor did he know that she begged. Her son paid for her lodging. He never saw her again in life, but saw her dead body in the Police Office on the 2d of November. Knew the body. Never heard her called by the name of Docherty.

William Noble, shop-boy to Mr. Rymer, grocer, Portsburgh, knows the prisoner Burke; has seen him come about the shop. Knows a man of the name of Hare also. Recollects of a woman coming to the shop on Friday morning, the 31st of October, about nine o'clock, asking charity. Burke was in the shop at the time. The woman was a little woman, middle-aged, but does not recollect her dress. Burke asked her name. She said it was Docherty; and he replied that she was some relation of his mothers; but he did not say what his mother's name was. Does not recollect if they appeared acquainted when they first met. Burke took the woman away with him, saying he would give her breakfast. Saw Burke again in the forenoon, buying some groceries; and on the Saturday he came back between five and six in the evening, and purchased a box—an old tea-box. The old tea-box shown in Court was similar to the one sold to Burke. The box was not then paid, and has not yet been paid. It was taken away by Mrs. Hare. Burke said when he bought it that he would send for it. She came and got it away within half an hour after it was purchased by Burke.

Ann Black, or *Connaway*, lives in Wester Portsburgh. Her house consists of one room; goes down a few steps and through a passage to it. The door to her house is the first come to, and a little farther in there is a door on the same side, which leads into another passage, at the end of which there is another door that leads to a room inclosed by two doors. Burke, the prisoner, occupied that inner room in October. The other prisoner, M'Dougal, lived with Burke. There is a house on the left hand of the first passage, occupied by a Mr. Law. Has seen Hare and his wife coming about Burke's. During the last week of October a man named Gray and his wife lived a few days in Burke's house. On Friday the 31st October (Hallowe'en), about mid-day, saw Burke pass along the passage, going inward, with a woman following him. She was a stranger, whom witness had never before seen. Mrs. Law was sitting with witness. In the afternoon, about three o'clock, witness went into Burke's house, and found the woman whom she had seen go in with Burke sitting at the fire supping porridge and milk. She had her head tied up in a handkerchief, and no gown; they said they had been washing her mutch and gown for her. Is not sure of her having on any thing but a shift and the handkerchief. Witness said to M'Dougal, "I see you have got a stranger?" and she replied, they had got a friend of her husband's, a Highland woman. Had no farther conversation at that time, and saw nothing to induce her to suppose that the woman was drunk. Some time after dark, M'Dougal came and asked witness to take care of her door till she returned. There was no person in the house, and soon after witness's husband, who was sitting at the fire, said he thought there was somebody gone into Burke's. She in consequence took a light, and went in, when she saw no one there but the woman, who came towards the door, being then the worse for drink. She said that she was going to St. Mary's Wynd to meet a boy who had promised to bring her word from her son; and asked the name of the land of houses, that she might find her way back, as she had no money to pay for a bed. Witness told her not to go away, as she would not get her way back; and she did not go. She told witness that Burke, whom she called Docherty, had promised her a bed and supper. She came into witness's house, and had a good deal of conversation with witness's husband about Ireland, and the army, in which he had been. She said, Docherty would give her a bed and supper, and she was to stay for a fortnight. She was the worse for liquor; and insisted on calling Burke, Docherty, as that was the name he called himself to her. She remained in the house about an hour, and while there, the prisoner (M'Dougal) and Hare and his wife came in. Mrs. Hare had a bottle, and Hare insisted on drinking; they all tasted, and witness's husband gave them a dram. The stranger partook of it, and so did M'Dougal. They were merry. Hare, Campbell, and M'Dougal were dancing. The woman was quite well; she had scratched her foot against Hare's shoe, but otherwise she was in good health. Mrs. Campbell remained in the house a long time, refusing to go until Burke came home; he had been out the most part of the night. Witness insisted on her going away, but she would not until Burke should come in; and on witness observing Burke passing to his own house, between 10 and 11, she informed Mrs. Campbell, who rose and followed him into his house. Witness slept none from the disturbance in Burke's house, which commenced after Mrs. Campbell went in. The disturbance was as if Burke and Hare were fighting. Witness got up between three and four, to make her husband's breakfast, but again went to bed, and rose about eight o'clock. The first thing she then heard was Hare calling for Mrs. Law, who did not answer him. A little while after, a girl, whose name she understood to be Patterson, came and asked for her husband; it turned out that it was Burke she wanted. Witness directed the girl into Burke's. M'Dougal came into witness's house, and said William (Burke) wanted to speak to her. She went in accordingly, and found there M'Dougal, Burke, Mrs. Law, and a young man called Broggan. Burke had a bottle of spirits in his hand. He filled a glass, and then dashed the spirits upon a bed. Witness asked him, why he wasted the spirits? and he replied he wanted to finish it and get more. Witness asked M'Dougal, what had become of the old woman? when she replied, that Burke and her had been too friendly together, and that she, M'Dougal, had kicked her out of the house,—asking, at the same time, "Did you hear it?" Burke asked if witness had heard the dispute between him and Hare? and said, No; he added, it was just a fit of drink, and they were friends enough now. They were all quiet before she got up to make her husband's breakfast, and she heard no more till after eight o'clock. Burke's wife sung a song while witness was in the house. Observed a bundle of straw at the bottom of the bed; it had lain there greater part of the summer. Witness left Burke's a little after ten. Was there again in the afternoon; was asked in by Mrs. Gray; Burke, Broggan, and M'Dougal were there. At a later hour, near eight o'clock, went in again with Gray's wife, to see something she had told her of; saw nothing, and was so frightened that she turned back again—the straw was turned. Before this Mrs. Dougal said, Gray's wife had stolen things, and wished witness to look after her door because it would not lock. Did not see Burke till far on in the night; it was then reported that he had murdered a woman, and her husband told him there was a noise about it. Mrs. Burke laughed very loud, and she said he (Burke) defied all Scotland; for he had done nothing he cared about, and no one breathing could impeach them with any thing that was bad. Burke said he would go and find out the man who said he had done wrong; and just as he went into the passage the police apprehended him.

Cross-examined—Said he was going to seek the man (Gray) who had said he had committed murder, and met with the police in the passage, when he returned into the house.

By the Court—Witnesses husband told Burke that Gray had seen a corpse in the house, and had gone for the police; and Burke said he would go and find him.

By a Juryman—The cause of her fright was hearing of a murder that Gray had spoken of.

Janet Lawrie or Law, lived, in October last, in the same passage with the prisoner and Connaway, and his wife. Remembers being in Connaway's house about two o'clock on the 31st October; and of seeing Burke in the passage, and a little woman following him. They went into Burke's house. Hare and his wife were in Burke's that evening between six and seven o'clock. The little woman was there likewise. Witness remained in Burke's house about twenty minutes. She went to bed about half-past nine o'clock, and during the night heard the noise of dancing and merriment, and of people scuffling. The noise was great; but she was not sensible of any other voice but Burke's. This noise lasted for some time, and she fell asleep. In the morning Mrs. Burke came in for the loan of a pair of bellows, and asked if witness had heard Burke and Hare fighting. Witness asked what she had done with the little woman during the fight; and she answered, she had kicked her to the door, because she had been using too much freedom with William, meaning Burke. She went away, and returned about nine; this conversation having taken place about eight o'clock. Mrs. Burke asked witness to go into her house, which she did, and found there Burke, Broggan, Hare, and M'Dougal; and before she left the house Gray and his wife came in. Burke took up a bottle which had some spirits in it, and sprinkled them on the ceiling and about the bed, saying he did so because none would drink. At the foot of the bed there was a good deal of straw lying; it had lain there for some time. The circumstances of which she spoke took place on Saturday morning, and Burke was taken into custody that evening. Was shown a dead body next day (Sunday) in the police office, and recognised it as the body of the same woman she had seen alive on Friday night.

Cross-examined—The straw at the foot of the bed was sometimes used as a bed; the Grays had lain upon it.

Hugh Alston, grocer, West Port, lives in the same land in which Burke lived. His is the flat above the shops, and Burke's was the one below them. Heard a noise on the 31st October, about eleven o'clock, as he was going along the passage that leads to his own house. His attention was arrested by the cries of a woman, of "Murder." Went down to the flat on which Burke's house was, and halted within a yard of Connaway's door, where he listened. Heard the noise of two men as of wrangling and struggling, and the woman crying "Murder,' but not in such a manner as to make him consider her in imminent danger. The cry continued for about a minute, and then he heard a sound as if a person were strangling; such a cry as an inferior animal might give when strangled. He could not distinguish between the sound whether it was that of a human being or a brute. Heard no noise of struggling. Heard the female voice that cried "Murder," call for the police, and she appeared at the same time as if striking her hand on the door. Witness went in search of a policeman, but could not find one. Had often been alarmed by cries, and was afraid of fire, but never thought of murder. He returned a second time, and heard the sound of the men's voices, who were speaking in a lower tone. The cries of "murder" had ceased, and he returned to his own house. He might have heard feet moving on the floor, but could not say the sound was louder. Was about three yards from the door that leads to Burke's house, when he heard the remarkable sounds. On the evening of the Saturday, he heard of a body being found, which enabled him to fix the circumstance on his memory.

Cross-examined—Did not suppose that the remarkable sounds came from the woman who struck on the door, and called for the police.

By the LORD ADVOCATE—The words were, he thought, "Police! for God's sake, there is murder here." This was shouted at the time the strange sounds were uttered.

By the DEAN of FACULTY—The sound of the stroke was upon the outer door. He had since tried the experiment; a person had gone and struck upon the inner door, which produced a very different sound indeed.

By a Juryman—Was sure that the cry of "Murder" proceeded from Burke's house.

Elizabeth Patterson lives in Wester Portsburgh. Burke came up to her mother's house on Friday the 31st October, about ten o'clock, and asked for her brother David, who not being in, he went away. Next morning she went, at her brother's desire, to ask for Burke, and got a direction to his house from Mrs. Law.

David Patterson, keeper of Dr. Knox's museum, lives at 20, West Port. Knows the prisoner by sight. Witness went home on the 31st October, about 12 o'clock, and found Burke knocking at his door. He said to witness he wished to see him at his house, and he accordingly went there with him. Found in it two men, including Burke; there might be more, but he did not recollect of more. There were also two women. After he went in Burke said he had procured something for the doctor, and pointed to the head of a bed where some straw was lying. The observation was made in an under voice, but not in a whisper. He might be as close to him as to touch him. No observation was made by any of the other persons. Nothing was showu to witness; but he understood, when Burke said he had procured something for the doctor, that he alluded to a dead body. His words were, that he had procured something, or there was something for the doctor, and he used the expression "to-morrow." There was a sufficiency of straw in the corner to conceal a dead body. M'Dougal was one of the females, and he thought he would know the other. Had no further conversation with Burke about what he had got for the doctor. Witness sent his sister, about nine o'clock next morning, for Burke. (Witness was here shown Hare and his wife, whom he identified as the other persons that were in the house along with Burke on the 31st October). Burke came next morning about nine, and witness said, if he had any thing to give to Doctor Knox, to take it to him, and settle with himself. He meant a subject to dispose of; and Burke went away. Saw him again in one of Dr. Knox's rooms, in Surgeons'-square, along with Hare, Mr. Jones, Dr. Knox's assistant, and the doctor. Heard either Burke or Hare say they had a dead body or subject, which they were to bring at night, and witness was instructed by Dr. Knox to receive any package that they might bring. Witness and Mr. Jones were in the way about seven o'clock, when Burke, Hare, and a porter named M'Culloch, came with an old tea chest. It was put into a cellar, and the door locked, and witness and Jones went to Dr. Knox's house, and informed him that the men had brought what was expected. The men and the porter followed, or had preceded witness and Jones, for when he came out he found them at the end of Newington. Dr. Knox gave witness five pounds, which to prevent disputes, he was to divide; and having gone to a house and obtained change, he laid the money on a table, and each took his share, leaving the sum to the porter that had been bargained for. Five pounds was not the whole price understood to be paid; the balance was to be paid on Monday, when Dr. Knox saw what had been brought. The price he believed generally was eight pounds, but no bargain was made. On the Sunday morning, Lieutenant Patterson of the police, and Serjeant Major Fisher, called on him, when he went with them, opened the door of the cellar, and gave the package to them, which had been left the night before. It was given. It was given in the same state in which it had been left the night before. The package was fastened with ropes. He assisted in opening the box, which was found to contain the body of an elderly female, which did not appear to have been interred. The extremities were doubled up on the chest and thorax, and the head was pressed down as if for want of room. At the request of the lieutenant of police, he examined the body externally while stretched on a table. The face was very livid, and blood flowed from the mouth. In his opinion the appearance of the countenance of the face indicated strangulation or suffocation, by being overlaid. He found no other external marks upon the body that would be supposed to cause death. Was not present at the dissection of the body. The eyes were not started, nor did the tongue hang out. The head was a good deal pressed down for want of room. Observed no mark about the throat. The lips and nose were dark coloured, and a little stained with blood.

Cross-examined by the Dean of Faculty—His reason for saying that death was caused by suffocation was, that the blood in a strangled or suffocated person rises to the head, and gives the face a livid appearance. Had seen the man Hare before; and knew that Dr. Knox had dealings with him for the procuring of dead bodies. The doctor also had had dealings with Burke, who seemed to act jointly with Hare. Had seen both assume a principal part. *They frequently brought subjects to the lecture rooms, which he supposed had not been interred* Had known of young men, who attended poor patients who died, give information of that fact to Dr. Knox, who handed over the direction to such persons to endeavour to make a purchase. In one instance a note was given to himself, and he handed it to these men, but the purchase was not made on that occasion.

By the Court—The body after he examined it, was left in charge of the police.

By the Dean of Faculty—Divided the £5. into £2. 10s. for each, to prevent drunken quarrels. Had seen such quarrels frequently between them.

By a Juryman—Could not say M'Dougal heard what Burke said to him in an under tone. The room, however, was small, and all might possibly have heard what was said.

By the Dean of Faculty—Both men were the worse of liquor when he went to Burke's, but not so much as not to know what they were doing.

John Broggan, carter, was in Burke's house on the afternoon of Hallowe'en. Burke and his wife, and Hare and his wife, were there. An old woman, a stranger, was also there, whom he left in the house at seven o'clock. He returned to the house about two in the morning, when he found Hare and his wife, and the prisoner and his wife. Hare and Burke were talking at the window. He fell asleep at the fire-side, beside the women, and Hare and Burke were in the bed. He left Burke's about seven in the evening, and returned again early in the morning. The prisoner and his wife, Hare and his wife, and Mr. and Mrs. Gray, were present. Some one asked, what had become of the spaewife? and the female prisoner answered, she seemed to be very fashious, and had asked for warm and cold water, and flannel to wash herself with; that the two men began a fighting, when the old woman roared out murder; that she, M'Dougal, gave her a kick, and thrust her out of the house, for an old Irish blackguard. In the forenoon, he saw Burke fling whiskey up to the roof of the house, then into his own bosom, and afterwards upon the bed. Burke crept under the bed, and when he did so he had a cup with whiskey in his hand. Saw him come out again with the cup in his hand. Burke desired witness to sit down on a chair at the foot of the bed, and not to move off it till he returned. M'Dougal was then in the house; and must have heard the direction given not to move off the chair. When he left the room Gray and his wife, and Burke and his wife, were left behind.

Ann Dougal or *Gray* knows the prisoners. Witness and her husband lodged five nights in their house in the end of October. Saw a strange woman there on the last Friday of October, who had on a dark sort of gown, and a red striped bed-gown under it. (Identified them.) She called herself Docherty. Was in the house with her till near dark on Friday. Burke said he had met her in a shop, and brought her in about nine o'clock in the morning. Burke turned witness and her husband out, because he said they quarrelled. He ordered them out of the house directly. Witness left the house at that time, about five o'clock. Burke said he would pay their lodgings for them that night, and told them to go to Wm. Hare's. Went to Hare's with his wife, who was in Burke's at the time. Returned to Burke's about nine o'clock, for some of her child's clothes; and found the old woman singing, and Mrs. Burke and Mrs. Hare dancing. Burke and Hare were drinking. Witness left Docherty there. In the course of the day Docherty wished to go out, but Mrs. Burke advised her to stop and take a sleep. Hare and his wife, and Mr. Burke, came and had supper in Hare's ; and afterwards went all away, leaving witness and her husband in the house. The Hares did not return that night. The first thing she heard in the morning was Burke asking for her husband. Witness and her husband went and got breakfast in Burke's about nine o'clock. Mrs. Law and Mrs. Conway, and the lad Broggan were there, besides the prisoners. Asked Mrs. Burke where the old woman was, who said she was too impudent, and that she had turned her out. The old woman was the worse of liquor the night before. Witness went to the corner where the straw was to look for a pair of her child's stockings. Burke asked what she wanted, and swore an oath for her to keep away from that place. At that time Burke was throwing whiskey about the house, and under the bed. Said he wanted the bottle *toom* (empty) to get more. He three times threw whiskey under the bed with a cup, and put some on his breast also. Witness was ordered to go under the bed for some potatoes to put on. She went and brought out some. The straw was lying at the foot of the bed, in a corner. Witness was out two or three times in the middle of the day. Burke went out at one time and told Broggan to sit on a chair, near the straw till he came back. Witness's husband was there at the time. Witness offered to clean the house ; but Burke said "Never mind, it will do." Burke would not let witness search the straw for the stockings. Witness and her husband were afterwards left in the house with Mr. Burke, who was on the bed. Witness looked on purpose, as she was afraid, from their proceedings, that there was something wrong, and the first thing she got hold of was the old woman Docherty's right arm. There was then no clothes on the body. Her husband lifted the head ; and they saw that the face was a little over with blood, about the mouth and one side of the head. Did not observe any wound about the body. It was lying on the right side. Witness flung the shawl upon it. Her husband and she left the house, and met Mrs. Burke on the stair when her husband told her about the body ; and asked about it. She told him to hold his tongue, and she would give him two or three shillings ; and if he would be quiet he would be worth ten pounds a-week. Witness turned back with Mrs. Burke, when she told her it was the old woman's body, who was well last night dancing on the floor. She bade her hold her tongue again, and she would give her five or six shillings ; and repeated, if her husband would be quiet he might be worth ten pounds a-week. Witness replied, "God forbid that I should be worth it in that way by dead people." Her husband gave information to the police. She saw the body again in the Police-Office.

Cross-examined—Witness slept in Burke's house on the Thursday night, on the straw. Was in Burke's all the forenoon of Friday, and never out but for a stoupful of water. Went to Hare's about dark. Nobody asked her to come back to Burke's, but she went there for her child's clothes. Thought, as it was Hallowe'en night, that they did not wish her among them. Her husband went with her for the clothes. It was about nine o'clock, and she did not stop many minutes. It was then they were dancing and singing. Does not remember Mrs. Connaway there. When witness went down to breakfast, did not see Hare and his wife there. Is sure Mrs. Hare was in her own house. She had come there long before witness went down to Burke's. When witness spoke to M'Dougal about the body, she said—"My God ! how could I help it." She used the same words upon the stair.

By the Court—Witness replied—if she could not help it, she should not stay in the house. Those words of M'Dougal were used after she had offered witness the few shillings, and spoke of ten pounds a-week to her husband. It was after the offer of money, and ten pounds a-week, that witness said, "Would she mean to bring a family to disgrace;" and prisoner replied—"My God! how can I help it."

James Gray, labourer, husband of the foregoing witness, corroborated the chief parts of her testimony. Burke said they must go out that night; he had provided a home for them, and they might come home next morning to breakfast—gave no reason to him for it. Burke took them to Hare's, and pitched on the bed they were to sleep in himself.—Burke said, he thought the old woman was a relation of his mother's. Was present when his wife found the dead body, and knew it to be that of the old woman Docherty. Described the conversation on the stair. Mrs. Burke fell on her knees and implored that he would not inform of what he had seen—said she would give him some shillings to put him over till Monday, and there was never a week after that but he might be worth ten pounds. He said his conscience would not let him do it. He heard her repeat nearly the same words in the house to his wife. She did say there that she could not help it; but did not hear her say so on the stair. They afterwards went into a public-house with Hare and his wife, and afterwards to the Police Office and gave information. Described the appearance of the body in similar terms with his wife. Knew it at once to be the old woman's body.

Cross-examined.—It was about five o'clock when witness and his wife left Burke's house first. Burke came to Hare's for them about seven, he thinks. Burke was not in Hare's at supper; but Mrs. Burke was. The Hares had left it before Burke came.

John M'Culloch, porter.—On the 1st of November, at six in the evening, Burke came for witness to carry something for him. Did not say what it was. Followed him to the West Port, to his own house, and got a box. Burke went into his house, and took some straw off a sheet, and put the sheet into a box, and packed it. The sheet was not empty, it had something in it of the shape of a body. Felt somethihg like hair when he was going to lift the box. Witness put the hair into the box.—(Witness was here warned to tell the truth)—There was a good deal of pressing before the body was got in. Hare was present, and assisted in pressing down the body into the box. The sheet was left where the box went to. Identified the box. Could not say whether it was a man or woman's hair he saw. The box was roped, and Burke ordered him to carry it. Burke told him to go down Cowgate, and up High School Wynd, and he would be directly after him. Burke met him near Surgeons' Square, along with his wife, and Hare and his wife. Went in at a gate, and the box was taken off his back. It was about half-past six. Afterwards went to Newington with Burke and Hare and the two wives. The men stood aside, and David Patterson came to them, when witness and Patterson and Burke went into a public-house, and got a dram, and divided the money. Witness got five shillings. The women left them before they went into the public-house.

By the Court.—Is positive he saw the prisoner M'Dougal at Newington, and also in the Square.

John Fisher, serjeant of Police, went to West Port, in consequence of information, to the house of the prisoner Burke to inquire into the case. Found Burke and Mac Dougal on the stairs coming out. Gray was with witness. Took prisoners both to their own house; and asked Burke what had become of his lodgers. He said, there was one, (pointing to Gray) and that he had turned out him and his wife for their bad conduct. Witness then asked where was the little woman who had been there the day before; when Burke said she had gone away about seven o'clock in the morning, and that William Hare saw her go away. Witness asked if any other person did, when he answered, in an insolent tone, "Yes, there was a number more." Witness then examined the place, and saw marks of blood about the bed. M'Dougal said the little woman he asked after could be found, as she lived in the Pleasance, and she had seen her that night at the Vennal, when she apologised for her bad conduct. Asked M'Dougal at what time the woman left her house, and she said it was seven o'clock at night. He then took the prisoners to the Police Office, and returned to Burke's house with the superintendent and Dr. Black; when they found a striped bed-gown on the bed and took it with them. It is the one now shown him. Saw blood quite fresh. Went to Dr. Knox's next morning, and got a box with the body of a woman in it, quite naked. Sent for Gray, who recognised the body, which they removed in the other part of the day to the Police Office. It was shown to the prisoners who denied all knowledge of it. The body was afterwards examined by Dr. Christison and Dr. Mewbigging.

Cross-examined.—Hare and his wife also denied all knowledge of the body, or having seen it either dead or alive.

William Haire, or *Hare*, a *socius criminis*, an *accomplise*, was warned to speak the truth,—as, if he deviated from it, the result would be the most condign punishment that could be inflicted.—Witness is a native of Ireland. Has been ten years in this country. Was asked, being a Roman Catholic, if he would wish to be sworn in any other way, he said, he had never taken an oath before; and it was about all one he believed. He was then sworn again, with his right hand upon a cross, drawn with ink on a copy of the New Testament.—Became acquainted with the prisoners about a year ago.—Was in a public house along with Burke on Hallowe'en day. Nobody else was with them. Burke told witness to go down to his house to see the *shot* he had got for the doctors; that there was an old woman there whom he had got off the streets; and he wished witness to go down and see how she was coming on. Understood by a *shot*, that Burke was going to murder her. Went down alone to Burke's house, and found a strange man and woman, besides, M'Dougal and the old woman. The strange man and woman are called Gray. The old woman was washing her short-gown, which was reddishstriped—the one shewn him. Was in Mrs. Connaway's betwixt eight and nine o'clock. Besides Connaway and his wife there were Wm. Burke and Broggan, and another chap he did not know Witness and wife, the old woman and M'Dougal, were left in Connaway's. Burke came in afterwards with the old woman. They had some more whiskey; and all got pretty hearty. Were dancing and singing in Connaway's. Quarrelled with Burke afterwards in his own house, who struck him, and they had a fight together. The women tried to separate them. Witness was pushed down on the bed twice.

The old woman was sitting at the fire. She rose and wished Burke to sit down; for he had used her decently while in the house, and she did not wish to see him ill-used. She ran twice out of the house crying either murder or police—could not say which. M'Dougal fetched her back both times. When witness and Burke were fighting, witness pushed the old woman over a little stool, and she was so drunk she could not get up again farther than to sit. She still called to Burke to quit fighting. He did quit at last, and witness lay still on the bed. Burke then got on the top of the old woman who was on the floor, and laid himself down upon her with his breast on her head. She cried, not loudly, but he held in her breath; and she only moaned a little afterwards. Burke put one hand on her nose and mouth, and the other under her chin, and continued this for ten or fifteen minutes, saying nothing while doing it. He then got up from the woman, who did not move after that. Burke put his hand across her mouth again for two or three minutes, when she appeared quite dead. Witness was sitting on the chair all this time. Burke then stripped off the clothes, and put them under the bed; doubled the body up, put the straw on the top of it, and covered it up. When M'Dougal and Hare's wife heard the first screech of the old woman, they leapt out of bed and ran into the passage. They did not come in again till the body was under the straw. Before the murder, the women were lying in bed with the rug over them. Witness was sitting at the head of the bed on the chair. Did not observe any blood at that time. Did not hear the women say any thing when in the passage. Before the women sprung out of bed Burke was on the top of the women. She gave a screech, and they leapt out of bed. None of them tried to save the woman. Witness's wife ran out first, and M'Dougal followed. Neither of them made any attempt to take Burke off the woman. It was about ten minutes before this the women separated witness and Burke. When the women came in Burke went out, and returned in about ten minutes. The women asked no questions. They went to bed again. Never asked for the old woman when they came back. Burke brought the doctor's man with him (Patterson), and asked him to look at the body, but he would not do it, and told him to get a box, and put it in. The women were in bed. Does not know if they were awake. Did not hear them speak at all from the time they went into the passage. Witness fell asleep while Patterson was there. Knew what he was about, "though a little drunkish." He awoke between six and seven in the morning. Slept in the chair, with his head on the side of the bed. The two women and Broggan were all in the bed, and Burke was sitting at the fire. M'Dougal is Broggan's aunt. Witness and his wife went home, and saw Gray and his wife, who had slept there all night. They had fallen out with Burke, in the evening, and applied for a bed. Met Burke next morning, who gave him a dram in Mr. Rymer's shop. Asked him to go with him to see about a box. Afterwards went to Surgeons' Square, and inquired about a box, but got none there. He then said he had one bespoke from Mr. Rymer's shop boy. Saw the box afterwards in Burke's house. A porter brougnt it in. Burke afterwards came in. M'Culloch is the porter's name. Met Burke at the back door, and went back to the house. Burke said to witness, he was little worth or he would have had the body in the box. Witness afterwards helped in with it, and the porter pressed it in. It was then roped. It is the box in Court, or one like it. The porter took it to Surgeons' Square. Burke followed at the same time, and witness went with the porter. The women followed them. Burke and witness went into the house with the porter. The box was put in a cellar, and they went to the doctor's house at Newington. Mr. Patterson* came out to them, and asked them to a public-house, where he paid them some money. All the three went in. Saw the women on the Newiugton road, both going and coming; but they did not go to the house. Got five pounds between them, except five shillings to the porter. Burke and witness got each £2. 7s. 6d. They were to get five pounds more on Monday. Saw Burke taken up that night. Witness was taken up next morning.

Cross-examined by Mr. Cockburn.—Has been here about ten years. Has beena boatman and a labourer during that time. Has been sometimes employed in selling fish. Has been concerned in supplying doctors with subjects as mentioned.

Mr. Cockburn.—Have you been concerned in supplying the doctors on other occasions than that you have mentioned?

The Lord Advocate objected to this qnestion.

Mr. Cockburn.—I hold that I am entitled to test this gentleman's credibility with the jury; and with that view I propose to ask him if he was concerned in any murder except this one.

Lord Advocate.—Thought the Dean of Faculty had agreed to confine himself to the present case.

Lord Meadowbank thought it neither a fit nor proper thing to

Mr. Cockburn.—All evidence is adduced because it is entitled or presumed to be entitled to credit. Now it is monstrous to suppose that I would not be allowed to test the credit of a human being in regard to his evidence. He then referred to a case lately tried in England of conspiracy,—where a witness in similar circumstances was interrogated, and admitted that he had been guilty of the most atrocions crimes, in consequence of which her evidence was totally discredited.

Mr. Alison replied, that the law of England was in no point more opposed to the law of Scotland than in regard to evidence. A witness here is not to be called to answer to his whole life and con-conversation. The utmost license was allowed to cross-examination in England, but this is contrary to the uniform and fundamental law of Scotland.

The Dean of Faculty.—I entirely concur with my learned friend. Our object is to discredit, not to disqualify him. We were bound to propose a question to try the veracity of this witness. The witness was warned that he was standing upon his oath being peculiarly situated; but it happens in most cases that he will answer it, and answer it falsely. If he answer it truly it will be for his credit; if falsely, it will be for the benefit of his client.

The Lord Chief Justice thought the question might be put, but the witness would be cautioned that he was not bound to criminate himself; for if he answered the question, he could expect no protection from the Court.

Lord Meadowbank reiterated his former opinion. It is not in the power of a witness to disqualify himself; and if this question were put, it would have that effect and no other. He never heard such a question proposed by which it would be in a witness's own power to disqualify himself by confessing himself to have been guilty of a crime infering infamy.

Lord Mackenzie thought the question might be put,—the witness being cautioned that he is not bound to criminate himself, and warned of the consequence, viz. that he has no protection, except for the crime now before the Court. Witness cannot disqualify himself,—to effect that he must confess a conviction. The admission of his having been guilty of a secret crime will not disqualify him. He had yet seen no authorities to shake this.

Lord Chief Justice coincided in the view of Lord Mackenzie, althoughhe agreed with Lord Meadowbank, in thinking this the "most extraordinary question he ever heard." But the case is an extraordinary one, and allowances must be made.

Lord Advocate wished to know in what situation he was placed? Was he allowed to ask him, if he confessed, of what murders were you guilty?

Mr. Cockburn.---We put this question, and the Lord Advocate is entitled to put any others he pleases. I cannot state the thing more generally. We intend to object to no question the Lord Advocate may chuse to ask.

Haire re-called.---Assisted in taking the old woman to Surgeon Square. This is the only body he ever was concerned in carrying. Never carried any other bodies. He "never was concerned in none," but he saw them done.

Lord Justice Clerk.---You are not bound to answer the question about to be put.

Mr. Cockburn stated to the witness that he was not bound to answer the question. How often had you seen them doing it? Declines to answer. Is this of the old woman the first murder you have ever been concerned in? Declines to answer. Was there a murder committed in your house last October? Declines to answer. Remembers Burke saying he had got a *shot*. He understood that to mean a person whom he was to murder. Had heard the expression "got a *shot*," used by Burke before, but not often. He said it many times when he did not mean to murder. On this occasion told witness he meant to murder the woman between eleven and twelve. Witness was dancing in Connaway's that night. When at Connoway's he had no notion there was to be any mischief that night, except "from his (Burke's) speeches." First time he formed any notion, was when he saw him (Burke) on the top of the old woman. Saw her dead body in the police office. Denied at the police that he knew the body. Could not say whether he denied he had seen the body alive. Has not received money at various times from Dr. Knox, nor from his assistants. Burke received the money for the old woman's body. Four pounds in notes, and one pound in silver. Burke threw two notes across the table to witness, and the rest of the change. Is certain that Patterson did not pay him. Patterson put the four notes, two and two, and halved the silver. Does not know which of the two paid the porter. Never had any quarrels or disputes with Burke about payments from Knox or his assistants. Never had any quarrels with Burke on money matters at all. The old woman went to the passage and called out "Police," or "Murder."

When Burke got on her she gave a screech or shout, and he heard no one afterwards call police or murder. Burke and he had been fighting before the screech. All the fighting was before the screech —none during it, and none after it. The two women and Brogan were on the bed, and witness at the side of the bed. Witness did not see Broggan come in. Sat on the chair for ten minutes while Burke was dealing with, or murdering the woman, without moving hand or foot. Sat by and saw it all done with his own eyes, without calling murder or police. Took the body to Surgeons'-square, and took money for it and next day denied, in the police-office, that he had ever seen it.

Mrs. Haire or Hare, wife of the preceding witness, was solemnly admonished by Lord Meadowbank, after which she was examined by the Lord Advocate. Lives in Portsburgh. Remembers last Hallowe'en night. Two people, Gray and his wife, stopping in Burke's house, stopped in her house for one night. Burke asked her to give them a bed. This was in the course of the day. Thinks it was in day light, but is not sure if it was in the forenoon or afternoon. Went out that night in search of her husband. Found him in John Connaway's, and M'Dougal was also there. Had spirits in their house. Did not recollect seeing an old woman in Connaway's. Stopped till her husband rose, and then she and her husband and M'Dougal went to Burke's. Burke came in soon after. The old woman was there before. There was a fight between her husband and Burke. She tried to separate them. The old woman went and cried "murder" and was shoved over. Saw Burke sit on the top of her. Ran into the passage with Nelly M'Dougal, where they remained till the door was opened. None of them cried out. Stood in the passage about a quarter of an hour. Witness said nothing about her having a suspicion the woman was murdered. M'Dougal asked no questions. Afterwards lay down in bed. Was standing between the door and the bed, when Burke leaned upon the old woman. There was very little room between the door and the bed. Burke had not lain many minutes on the woman when Nelly M'Dougal and Witness flew out. Could not say exactly where M'Dougal was standing. Witness had a glass in her hand, but was not the worse of liquor. Was alarmed at what she saw. Saw Burke on the woman, but could not say whether on her mouth or on her breast. Had some previous reason of suspicion. Had seen a little trick of it done before. M'Dougal had, in the course of the afternoon, gone to witness's and said, "there was a *shot* in the house." She did not say any thing about the meaning of a *shot*, but that Burke had picked a stranger out of a shop. M'Dougal told her it was a woman, at the same time she mentioned it was a "*shot*." She did not say expressly she was to be made away with; but witness understood perfectly that this was to be done. Her reason for understanding a *shot* was, that she had known it on former occasions applied to murdering or making away with a person. They had given the woman drink, but were not pressing it upon her, yet she was rather the worse of drink. Witness remained at Burke's till between four and five next morning. Was lying in bed when Paterson came in. Nobody was in bed with her. Knows of the body lying at the foot of the bed. Knows of a box. She went for it to Rymer's Shop, but M'Culloch, the porter, took it out of her hand, and took it away. Followed her husband and Burke for fear they would fall a fighting. Went first to the Cowgate, and then part of the way to

Newington. Made no answer that she recollects about the *"shot."* Said nothing about it on their way to Newington. M'Dougal expressed no regret on account of the old woman's murder. While in the passage, while the murder was committing, they had a few words about the killing of the woman, and said to each other, it might be the same thing with them, meaning that they too might be murdered. Knew that Mrs. Connaway and Mrs. Law lived near, but said nothing to alarm them. It was not natural she should inform on her husband. Had left him three or four times, because she was not living a contented life.

By the Court.—The old woman went only to the first door to call police. There are two doors on the passage. She came back of herself. It was after this she was pushed down. Could not exactly say how long she remained, but shortly after Burke leaped upon her. When Burke was upon her, heard no groans. The reason why she (witness) ran out was, she was afraid she would see the woman murdered. She thought nothing of what had been said about a *"shot,"* in the forenoon. Did not expect the old woman was to be murdered that night. Had made no remarks.

By the Dean of Faculty.—Cannot say who pushed the old woman down. Instantly after she was pushed down, Burke got upon her. There is a door at the outer end of the passage, which latches or snecks, but she does not recollect on which side. Nobody knocked on the door when they were in the passage so far as witness heard. Did not hear the old woman cry when she was in the passage, or make a noise. She had not power to go out of the passage. Said not a word when she went into the room again. Cannot say whether Burke and Hare were sitting or standing when she re-entered. Went to bed, but did not sleep at first, though she afterwards fell into a dose. Broggan came in, and they had a dram, of which Burke and Broggan, witness and M'Dougal, partook. Witness rose out of bed when Patterson went out. Did not go into bed again. M'Dougal was not in bed. Broggan, M'Dougal, and witness lay down upon the floor. Burke and Hare fell a-fighting again. Burke lifted a stick to strike Hare, and M'Dougal took it out of his hand. Never saw the old woman get up off the ground after she fell. Does not remember how long she was in Connaway's, but when she went to Burke's, she found there Hare and M'Dougal, but cannot recollect whether Burke was in, or came in a little after.

By the Court.—The reason why she did not go home was, that she was waiting for her husband, and trying to get him to go along with her.

Dr. Black was shewn the body of a woman in the Police Office, on Sunday, 2nd. November. Examined it externally. It exhibited no marks or blemishes of any consequence. There was some blood about her mouth and nose, and some saliva was mixed with the blood. The eyes and face were much swollen, and the latter of a blackish hue. In a medical point of view, he could give no opinion as to the cause of death. At the time he examined the body his opinion was that the woman had died a violent death by suffocation.

By the Dean of Faculty.—Has no medical diploma, but has been surgeon to the Police for 20 years and upwards. On the Saturday when information was lodged at the Police Office, he went to the West Port and found from 14 to 16 ounces of blood mixed with saliva, and having been told the woman had laid in that place, he concluded that it had come from her. But from any thing he saw relative to the appearances of the body, he is really afraid to hazard an opinion.

By the Court.—Has seen several corpses that died by suffocation; and taking the whole circumstances into view thinks the appearances identical.

By the Dean of Faculty.— Has repeatedly seen cases in the Police of suffocation from drink and other causes. Has had no cases of simple suffocation. The symptoms herewere the same, or nearly so, as in cases of suffocation by drink. The eyes were nearly started from the sockets.

By the Lord advocate.—Has seen no saliva such as he described, in cases of drink, unless some injury had been done.

Dr. Christison.—*Saw and examined minutely a body in the Police Office on the 2d. and 3d. of November. Saw several contusions on the legs and the elbow, one on the loin, one on the right shoulder blade, a very small one on the inside of the upper lip, and two upon the head; one on the back part of the left side of the head, and the other upon the fore part of the right side. Witness likewise found pale lividity of the features generally, and dark lividity of the lips, great redness from vascularity of the whites of the eyes; an almost total want of lividity on almost every other part of the body but the face; roughing of the scarf skin or cuticle under the chin and over the upper part of the throat. Internally found general fluidity of the blood and an accumulation of it in the right cavities of the heart; in the middle of the neck, found the ligaments connecting the posterior parts of two of the vertebrae torn, blood effused among the spinal muscles near the laceration, and into the cavities of the spinal muscles; and found no sign of natural diseasv, except a very slight incipient disorder of the liver. All the other organs of the head, the chest, and the belly, were unusually sound. Witness forgot to mention a small patch of blood on the left cheek, and likewise a very slight contusion over the left eye. Does not consider that the contusions could be produced after death, but the injury of the spine and other appearances described, might have been caused as well after death as before it. An injury properly applied* 18 *hours after death would cause the same appearances. Cramming into a box like that shown, might have caused these appearances. Strangulation, or smothering, or throttling, is consistent with the appearances described; but particularly throttling, by applying the hand under the throat, and throwing the head backward, which would check the access of the air. Found unequivocal proof of violence in the contusions dispersed through the body, and in no cause of death being visible. He begged to add, from the woman being seen recently before alive and well, the blood under the bed, as well as the appearances already mentioned, death by violence was extremely probable. If the woman had met her death by Burke and his wife, the appearances were such as would correspond with those circumstances. The appearances in some cases of suffocation would be similar to those in the present. The appearance of blood from the nose or mouth after death may be produced by any species of suffocation. Directly or indirectly, death by intoxication must physiologically be occasioned by suffocation.*

Cross-examined by Mr. Cockburn.—*The appearances found in the body justify only a suspicion, and with the circumstances mentioned, they amount only to a probability.*

By the court.—*Opened the stomach, when he found half-digested porri ge, but no smell of whiskey or of any narcotic. The smell is not a necessary circumstance even in cases of intoxication; at least witness knows a reported case where a person was said to have died of continuous intoxication, without any smell being found in the stomach, though* *it was found in the brain and other parts of the body. Knew a similar case where the stomach on being opened gave out the effluvia of whiskey.*

This closed the case for the prosecution.

THE DECLARATIONS OF THE PRISONERS were then read, and from their number, occupied a considerable time. Burke described himself as a native of Ireland; that he has been ten years in Edinburgh; is a shoemaker; and lived with Elizabeth M'Dougal, but was not married to her. He pretended to account for the dead body being in his house, by saying it was brought there by a porter

THE LORD ADVOCATE addressed the jury on behalf of the crown. After a few preliminary observations on the nature of the case, and the circumstances under which it had been brought forward. He went over the evidence at some length, commenting on it, and showing its various bearings on the respective cases of the two prisoners. His lordship contended, that even independently of the evidence of the *socii criminis* altogether, the charge against the prisoner, Burke, had been completely made out. He referred particularly to the evidence of Mary Stewart, of Gray and his wife, of Elizabeth Paterson and her brother, and most especially of Alston; and he maintained that their joint testimony established such a connected train of circumstances as could leave no doubt whatever as to the guilt of the prisoner. As to the case of M'Dougal, he adverted to her previous knowledge of the intended crime, evinced by her statement that they had a "shot in the house for the doctors,"—together with her offering a bribe to the parties cognizant of the facts to conceal what they knew, and contended that her accession, as art and part in the commission of the crime was completely made out. If it was not, the case of the prosecutor, he said, would be truly lamentable; for, in that case, he might abandon all hope in future of ever obtaining a conviction where a crime of an occult nature had been committed.

THE DEAN OF FACULTY commenced his address to the jury, on behalf of Burke, precisely at three o'clock this morning. After some general observations on the nature of the crime, the alleged circumstances of atrocity attending it, the effect of the intent charged, the prejudices which had been raised, and the influence of the various publications which had taken place in the newspapers and otherwise, in exciting a ferment in the public, together with a very ingenious attempt to get rid of the awkward presumptions of the case on account of Burke's alleged trade of a resurrectionist,—he proceeded, with his usual great talent, to analize the evidence, and to exhibit the numerous and striking contradictions between the testimony of the accomplices and that of the other witnesses.

Mr. Cockburn addressed the jury on behalf of M'Dougal. In commenting on the testimony of the Hares, he said, even supposing their evidence to be correct, it did not amount to certainty against her. To talk of their credibility, was a sporting with men's lives, and a mockery of justice. The evidence of these miscreants could not be received in the same manner as the evidence of an honest person. Their character was written in letters of blood, that never could be effaced from the recollection of all who heard their horrid narrative. Could they conceive that an accessory to murder was worthy of credit? and yet the law made him an admissible witness The man who was the chief evidence in a trial for the crime of murder,—who had told that he sat on a chair, within a yard of the murder and murderer, and raised not an arm, uttered not a cry to save the unhappy victim: which was the most guilty,—the

the cool, cold-blooded spectator of the foul murder, or the phrenzied actor? There were certain questions which he felt it his duty to put to Hare; but which he warned him he need not answer unless he chose. "I asked him," said Mr. C. "if he had been concerned in other murders; but he declined to answer. I asked him whether a murder was committed in his own house, in October last; and again that monster took shelter in his privilege. In what situation was that man placed when he gave his evidence? There were other murders hanging over his head, upon which he might be libelled; he came from the jail and would be returned to it,—knowing full well, that if the case failed, he might be called upon to descend from the witness-box, to take, along with his wife, his place at the bar—in short, to exchange places with the prisoners. The monster had been that very day out of jail, to which he would be again consigned, if he failed to make them (the jury) believe his story. He had often heard of king's evidences, or approvers, in crimes to which they had been accessaries; but of persons coming to give evidence with other crimes of a similar nature hanging over their heads, the very idea was horrible. If Hare and his wife had stood at the bar, and made a judicial confession of the crimes which they had stated from the witness-box, sentence legally disqualifying them would have been recorded; but being allowed to make their confession from the box, they were not only freed from the crime, but cleared to the effect of being converted into good and credible witnesses.—But what could a jury think of the evidence of the man, who came forward and said, I have been guilty of one murder, but want to free myself from blame by impeaching another who was not probably so guilty? They had seen the squalid wretch—who was the very picture of poverty and vice—who stated, that his traffic was as revolting to right feeling as his will was profligate. His learned friend had surely little skill in physiognomy, or he would never have put the female in the box—on every line of whose countenance every evil passion was imprinted. She stood in that box, with her miserable child in her arms, and, instead of casting upon it a look of maternal kindness, seemed to eye it only in a manner that added to her malignity. He would say, without fear of contradiction, that he never had, in the course of his practice, seen such wretches placed in the witness-box. The learned gentleman alluded to the declaration, and said, if the jury allowed their minds to be influenced by the statements of those documents, the prisoners would be legally murdered. If they had doubts of the evidence; and, said Mr. C. "My God! can you say that there is no doubts in the case; the prisoner must have the benefit of these doubts." It was the duty of the Public Prosecutor to prove his case. "Talk not," said Mr. C, "of suspicions of danger—no danger is greater than that of a criminal verdict on doubtful evidence." Though the town should ring for months with clamour, the jury are the more called upon to discharge their duty,—to separate and discharge from their minds every prejudice,—recollecting that they held in their hands the balance of justice,—that they were called upon to decide in a doubtful case,—and that a doubt decided the fate of that unfortunate woman.

The LORD CHIEF JUSTICE began his CHARGE to the jury at six o'clock on Thursday morning, and finished about half past eight. His Lordship expressed great satisfaction at the defence having been committed to such eminent counsel: for he could assure them (the jury) he never had heard the defence of any individuals conducted with more zeal and consummate ability than that of the prisoners. There was another observation which he was called upon to bring under their notice,—namely, to express his thorough confidence that they would divest their minds of every impression or prejudice which might have been raised from what they had read or heard out of doors. It would be a matter of infinite regret if writings or publications, or any sort of feeling, should for one instant affect their minds; but he was sure they knew their duty too well to be influenced by prejudice; they would be guided by nothing but the facts as disclosed during the investigation. The evidence was partly circumstantial, and partly direct. The first was composed of a number of minute facts and circumstances; and the latter of the testimony of *socii*. It would be their duty, first, to consider the general evidence; secondly, that of the *socii*; and, thirdly, the combined effect of both conjoined. From these, the verdict, upon a fair inference drawn from a consideration of the whole, would be made up. His Lordship then directed the attention of the jury to the way and manner the old woman Campbell had been bereaved of life; informing them, that if they were satisfied she had not died in consequence of violence, there would be an end of the inquiry. If they held the contrary opinion, they would proceed to consider whether she had lost her life by the hands of the prisoners, or one or other of them. The evidence of the identity of her person was the first branch of the investigation. His Lordship then went over the whole evidence with great minuteness, commenting upon those parts where there were seeming contradictions, or which had been specially alluded to by the Public Prosecutor in the course of the defence. With respect to the *socii*, his Lordship said they were entitled to credit if they gave a true account of the transaction of which they spoke. He admitted they were not placed in the same situation with a person against whom no suspicion existed; but it was the duty of the jury to sift their evidence. They had been told of the Hares being connected with other murders. With what murders they might be chargeable he did not know; but to a certainty they could not be libelled on either of the charges contained in the libel now under trial, and which had not been sent to the jury. It was, therefore, unfounded in law to say, that these two persons were liable to be tried for the two murders contained in the indictment. These individuals who were under the protection of the Court, had been called as accomplices, in the same manner as associates in robbery, wilful fire raising, and other capital crimes. With respect to M'Dougal, his Lordship was understood to express his opinion, that if the evidence was to be believed, she had been accessary before the commission of the crime, during its commission, and after it was committed; and, upon the whole, he seemed to consider the libel as made out against both.

THE JURY retired at half-past eight, and after having been inclosed for 50 minutes, returned a verdict, finding William Burke GUILTY of the charge; and in regard to Helen Mac'Dougal, found the libel NOT PROVEN.

The LORD ADVOCATE having moved for the sentence of the Court.

LORD MEADOWBANK said, after a trial of unexampled length—protracted to nearly twenty-four hours—a trial in which the minds of your Lordships have been excited to the uttermost, it would be improper in me to detain the Court with commenting on the circumstances of this most atrocious case; and I feel that it is quite impossible for any one who has attended to the proceedings on this trial, to think that we have any thing left to do but to go through with the distressing duty which has now fallen to your Lordships to perform. But it is impossible, in considering the whole circumstances of this distressing case, not to advert to that most extraordinary—that most unexampled, and that atrocious system, which every one must feel has been developed by the evidence brought forward. I am sure, and I speak in the presence of your Lordships who can correct me if I am wrong, that in the whole history of the country—I may say in the history of civilized society—nothing has ever been exhibited that is in any respect parallel to this case.—Murders have been committed before now; crimes of all descriptions have unhappily been too common; but we had flattered ourselves that our country was in a great measure free from the stigma of any great or heinous atrocity within its bounds. That there should have been found, therefore, not one but many, leagued and combined together, in order to sacrifice their unoffending fellow-creatures, for the purpose of disposing of their bodies, is to the last degree humiliating. The very announcement of such a system is sufficient to raise ideas of horror which it would be vain to search for words adequately to express. When I take a view of the other features of this case, it exhibits a picture of iniquity which the greatest stretch of imagination can hardly take in, yet it was so clearly brought out in proof, that I am sure it must carry conviction to every one who heard the evidence. It is proved that the prisoner, in going up the street after some of his usual avocations in the morning, fell in with this poor unprotected old woman, with whom it is quite clear that he was perfectly unacquainted before. Now began his arrangements for ensnaring his victim. With the immediate feeling upon him of the object which he had in view, he claims kindred with with her by a ficticious name; and by pretences of kindness, endeavours to gain on her affections. He entices her into his own house, and there continued his friendship to her, insomuch that she expressed gratitude to Mrs. Connaway for the kindness with which he had treated her. He thus contrives so far to achieve his object, that she seemed to have opened her affection and confidence to him—she looked to him for protection—she felt he had dealt kindly with her—she refused to enter the house until he entered with her. She did enter with him. A struggle, or pretended struggle, ensued: and when I recollect that the moment she fell, that struggle ended, I cannot rationally entertain a doubt that it was feigned and got up for the purpose of entrapping her, and throwing her of her guard. What did the individual to whom she looked for protection now do? She is thrown down, and he, with the ferocity of a demon throws himself upon her, and extinguishes life in a few moments. I do not state this with any view whatever of exciting the feelings, of aggravating indignation against the unhappy prisoner; but really when such a system of crime, in which there are many actors, is developed in the midst of this great metropolis, I cannot resist stating the impression which it has made upon my mind as one of the most atrocious exhibitions of atrocity ever disclosed in the annals of criminal jurisprudence in this or any other country. Sitting as I do in this place, there is little occasion to advert to certain matters that were pointed at, and eloquently pointed at, in the course of the defence. I will only observe, that with matters of science we have nothing to do. We have nothing to do but to administer the law as handed down to us, and God forbid that the claims of science, or of philosophy, or speculation of any kind, shall prevent us from feeling the horror which such offences are naturally calculated to excite. With respect to the issue to the prisoner, your Lordships are aware that that issue must be death. The highest law has said, "Thou shalt not kill—thou shalt do no murder;" and the law of this country says, that he who commits murder shall suffer death. The prisoner must have considered that he was committing the high crime of murder. In his breast, as in the breast of every one, must be implanted that feeling, that murder was the most heinous of crimes. There is no doubt that it is the duty of the court to pronounce sentence on the prisoner; and I now suggest, that he be detained in the Tolbooth, and he suffer death on the scaffold, on the 28th day of January next, and his body be given for dissection.

Lord MACKENZIE expressed his concurrence.

THE SENTENCE.

The LORD CHIEF JUSTICE then addressed the prisoner nearly as follows:— William Burke, you now stand convicted by the verdict of an intelligent and respectable jury, of the atrocious murder charged against you in the indictment, upon evidence which could not leave a doubt of your guilt on the mind of any one who heard it. I so fully concur in the view which has been so eloquently given by my learned brother of the nature of the offence, that I will not occupy the time of the Court with commenting on it. A crime more atrocious, a more cold-blooded, deliberate, and systematic preparation for murder, and the motive so paltry, is unexampled in the annals of the country. It is now my duty to inform you, that if ever it was clear beyond the possibility of a doubt that sentence would in any case be carried into full execution, this one of those cases. You may rest assured that you have no other chance: and I would now solemnly warn you to prepare your mind in the most suitable manner to appear in a very short time before the throne of Almighty God to answer for this crime, and for every other with which you stand chargeable in your own conscience. The necessity of repressing crimes of this nature precludes the possibility of your entertaining the slightest hope of a remission of your sentence. The only doubt I have in my mind is, whether to satisfy the violated laws of your country, and the voice of public indignation, your body ought not to be exhibited in chains, to bleach in the winds, in order to deter others from the commission of similar offences. But taking into consideration that the public eye would be offended by so dismal a spectacle, I am willing to accede to a more lenient sentence, and that your body should be publicly dissected. I trust that if it is ever customary to preserve skeletons, your skeleton will be preserved, in order that posterity way keep in remembrance your atrocious crimes. I earnestly advise you to lose no time in humbling yourself in the sight of God, and that you will seek the aid of the ministers of religion, to whatever profession you may belong. The present charges having been fully established against you, it is my duty to inform you that you have but a few days to remain on the earth. His Lordship then pronounced, with due solemnity, the sentence of the law.

The scene was altogether awful and impressive. The prisoner stood up with unshaken firmness. Not a muscle of his features was discomposed during the solemn address of the Lord Justice Clerk consigning him to his doom. The female prisoner was much agitated, and was drowned in tears during the whole of this melancholy procedure.

FROM AN EDINRURGH PAPER.

The civil authorities took every precaution to preserve the public peace. The High Constables of the city and its dependencies mustered at six o'clock in the evening, and the police received a temporary reinforcement of upwards of three hundred men, who were on duty the whole time. In order, however, to repress effectually any disturbance, the infantry in the Castle, and the cavalry at Piershill, were under orders, at a moment's notice, to march into the city. Notwithstanding this, however, a mob assembled in the course of the night, and proceeded to Surgeons' Square, with the intention of attacking the lecture rooms; but a strong body of students, armed with pistols, and flanked by two detachments of police, shewed so formidable a front, that they were compelled to retreat.

Murder of JAMES WILSON, *commonly called Daft Jamie.*

Daft Jamie was murdered in the house of the witness Hare, who has mentioned some circumstances connected with the destruction of this poor innocent, caulclated to form a suitable pendant to the account of the death of Madgy Gonegal. Jamie was enticed into Hare's house by Burke, the usual decoy duck in this traffic of blood (the appearance of Hare himself being so inexpressibly hideous that it would scare even this moping idiot), and he was plied with liquor for a considerable time. At first he refused to imbibe a single drop; but by dint of coaxing and perseverance, they, at last, induced him to take a little. At length, however, he became overpowered; and laying himself down on the floor, fell asleep. Burke, who was anxiously watching his opportunity, then said to Hare, "Shall I do it now?" to which Hare replied, "He is too strong for you yet; you had better let him alone for awhile." Both the ruffians seemed to have been afraid of the physical strength which they knew the poor creature possessed, and of the use he would make of it, if prematurely roused. Burke, accordingly waited a little, but getting impatient to accomplish his object, he suddenly threw himself upon Jamie, and attempted to strangle him. This roused the poor creature, and muddled as he was with liquor and sleep, he threw Burke off and got upon his feet, when a desperate struggle ensued. Jamie fought with the united frenzy of madness and despair, and Burke was about to be overpowered, when he called out furiously to Hare to assist him. This Hare did, by tripping up Jamie's heels; after which both the ruffians got upon him, and at length, though not even without the greatest difficulty, succeeded in strangling him.

A girl, who had been servant to the Hares, and who had fled after being received as a witness on Burke's trial, has been apprehended at Glasgow, and is now in custody at Edinburgh to await any further proceedings which the public prosecutor may think proper to institute.

J. Pratt, Priuter, Manchester.