

Defence of William Bourke Kirwan, condemned for the alleged murder of his wife, and now a convict in Spike-Island / to which, amongst other documents, is appended the opinion of Alfred S. Taylor, that 'no murder was committed'.

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Boswell, James Knight.
Taylor, Alfred Swaine, 1806-1880.
Royal College of Surgeons of England

Publication/Creation

Dublin : Printed by Webb and Chapman, 1853.

Persistent URL

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DEFENCE

OF

WILLIAM BOURKE KIRWAN,

CONDEMNED FOR THE

ALLEGED MURDER OF HIS WIFE,

AND

NOW A CONVICT IN SPIKE-ISLAND:

TO WHICH, AMONGST OTHER DOCUMENTS, IS APPENDED

THE OPINION

OF

ALFRED S. TAYLOR, M.D., F.R.S.

THE MOST EMINENT MEDICO-LEGAL WRITER IN THE EMPIRE,

THAT "NO MURDER WAS COMMITTED."



PRESENTED-BY

W. Keaven

DUBLIN:

PRINTED BY WEBB AND CHAPMAN, GREAT BRUNSWICK STREET.

1853.

DEFENCE

WILLIAM BOURKE KIRWAN,
DEFENCE OF WILLIAM BOURKE KIRWAN

ALLEGED MURDER OF HIS WIFE,

NOW A CONVICT IN SPIKE-ISLAND.

THE OPINION

ALFRED S. TAYLOR, M.D., F.R.S.

THAT "NO MURDER WAS COMMITTED."

PRINTED BY WOOD AND CLARKE, GREAT BRISTOL STREET.

DEFENCE OF WILLIAM BOURKE KIRWAN,

&c.

JUNIUS tells us that prudence and self-preservation will oblige the most moderate dispositions to make common cause, *even* with a man whose conduct they *censure*, if they see him persecuted in a way which the real spirit of the laws will not justify. This generous sentiment, from one of England's ablest advocates of constitutional freedom, is well adapted to the subject of the accompanying statement, who has been persecuted and slandered to the death. With Kirwan's moral conduct we have nought to do. To convict him of the sixth, he has been charged with a breach of the seventh commandment; but without being his apologists, it strikes us that it is a redeeming feature in his character, that he did not desert the woman he betrayed; and in language the rule of all, "Let the man that is without sin cast the first stone."

Reports of the Murder of Bowyer and Crowe.

When Mr. Boswell was requested to investigate the circumstances in connexion with this mysterious case, with the view to further judicial or *parliamentary* inquiry, he found the public mind prejudiced by the malicious and false reports, industriously circulated, that Kirwan had murdered several other persons, and amongst others his brother-in-law Crowe and a Mr. Bowyer, which latter charge led to a long investigation before the Commissioners of the Metropolitan Police, during which investigation the convict was removed to Spike Island. Impressed with the conviction that it would be idle and improper to take any steps in the case of the *Queen v. Kirwan*, until he had freed the character of the convict from the imputation of these murders, he applied himself to unravel them, and succeeded not only in refuting the charges, but in establishing the complete and entire innocence of Kirwan.

Charge of Bigamy.

The next charge which he successfully resisted and exposed was an effort to get up a case of bigamy against Kirwan. The attention of the authorities having been called to the circumstance, all further attempts with this view have ceased.

Source of Reports.—Mrs. Byrne.

In considering the circumstances of this singular case, it becomes absolutely necessary to trace the sources from which these reports sprang; and on looking into the informations taken by the Crown, it appears that on the 21st September, 1852, one Maria Byrne, a person who for years has been proved to have systematically persecuted Kirwan, made an affidavit, in which, among other statements, she swears—"That having ascertained that the said Mr. and Mrs. Kirwan had left the residence No. 11, Upper Merrion-street, about "three weeks ago, she, suspecting that Kirwan had taken his wife "to some strange place to destroy her, made inquiry as to where the "parties had gone; and that she had no doubt on her mind that the "said Mrs. Kirwan was wilfully drowned by her husband, (the convict), and that she had *strong reasons* to believe he (Kirwan) *made away with other members of his family* under very suspicious circumstances." To this person is to be attributed the first suspicion that Mrs. Kirwan was murdered by the convict, and that it was she who also spread reports that Kirwan had murdered Crowe and Bowyer, and charged him with the murder of her husband.

The first party to come forward to refute the statements of Mrs. Byrne was Mrs. Crowe, the MOTHER of the deceased Mrs. Kirwan. She swears, "That there could not be a quieter husband than "Kirwan had been to her daughter, who had a full supply for her "every want and desire; that the information of said *Maria Byrne* "was wholly false and unfounded; that said Maria Byrne on one occasion said that 'bloody Billy Kirwan, and Hodges and Smith,' had "murdered her husband, and that she (Mrs. Crowe) hearing that "Mrs. Byrne's husband was in an hospital, called in January, 1852, "at the house in Lower Merrion-street, when Mrs. Byrne introduced "her into a room where was laid out tobacco, and said to her, 'Here "is a wake, but no dead man.'"—(*Mrs. Crowe's Information.*)

Mrs. Bentley, a lady of the highest respectability, has sworn that the said Mrs. Byrne used to instigate the late Mrs. Kirwan to quarrel with her husband, she and they being next-door neighbours; that Mrs. Kirwan had no peace of mind until she forbade Mrs. Byrne the house; and that Mrs. Kirwan always represented her husband as a gentle and good-natured man.—(*Mrs. Bentley's Declaration.*)

Ellen Malone also, who had been in the service of Mr. and Mrs. Kirwan, proves that Mrs. Byrne was in the habit of telling stories to Mrs. Kirwan to aggravate her husband, and that Mrs. Byrne had been turned out of the house. She also declares the convict treated his wife with the greatest kindness and generosity.—(*Ellen Malone's Declaration.*)

The next person who charged the convict with murder and robbery is a Mrs. Bowyer. This person has claimed from the Commissioners of the Dublin Metropolitan Police a large quantity of pictures, which are now in Kirwan's house, and which she alleged were in the year 1837 stolen from her husband, many of them being of

great value. On an investigation and examination, it appears that almost all the valuable paintings so claimed by Mrs. Bowyer are paintings which were sent by third parties to be cleaned, and an immense number were copies made within a few years by Kirwan himself. She also claimed a modern book-case full of books, which Mrs. Bowyer told the police-constable was just as it was, with *all the books in it*, when stolen from her husband in 1837. The books, on examination, were found to be nearly all of a modern date, having been published between 1845 and 1852. Yet, upon the testimony of such witnesses, was the charge of murder got up against the wretched and *absent* convict, and, in the language of the coroner, "*his character was his ruin.*" Mrs. Bowyer some years since was in a lunatic asylum.

Conspiracy.

Kirwan, immediately after his arrest, wrote a letter to Major Brownrigg, the deputy-inspector of constabulary, that the charge of murder was the result of a conspiracy, and named the party. This letter, of course, must be forthcoming.

Among the many false reports circulated against Kirwan, it was said that the deceased did not know of his intimacy with Miss Kenny until a short time before her death; thus filling the public mind with a motive for the alleged murder. Like all the other reports which slandered him to death, this one is without a shadow of truth.

Mrs. Bentley has since the trial deposed that to *her* knowledge, as well as that of *several members* of her family, Mrs. Kirwan was fully acquainted with Mr. Kirwan's intimacy with Miss Kenny before the expiration of one month after her marriage, more than twelve years ago.

Ellen Malone, since the trial, made a declaration that about three years since a little boy called on Kirwan, and that Mrs. Kirwan told her that he was Kirwan's son, and that he had two or three more of them.

The medical gentleman who attended Miss Kenny on her lying-in was aware of the fact, and since the trial has so publicly stated; and since the trial Teresa Kenny has also deposed that both she and Mrs. Kirwan knew of this intimacy for the last ten years.—*See Miss Kenny's Declaration annexed hereto.*

Independent of this conclusive evidence, surely reason would dictate to ordinary observation that it was impossible the convict could leave his house and have a family by another woman, without, as was alleged, his wife knowing it, they living within a mile of each other.

Pat Nangle.—Left Howth at Half-past Seven.

The chief witness examined upon the trial was Pat Nangle, who swore "that Mrs. Kirwan directed the men to come at eight o'clock in the evening. That at half-past seven o'clock he and the men left Howth for Ireland's Eye, which they reached about eight

"o'clock, and when they reached, they saw Kirwan standing at the "LANDING PLACE, and that he had a bag, a book, and a stick."

It is most important to take the evidence of this witness in detail. In reference to the direction given by Mrs. Kirwan, that the men should come at eight o'clock, it was proved before the Coroner that she was much annoyed at the men coming before their time on the former occasions of their visiting the island. The usual period in fine weather for rowing from Howth to Ireland's Eye is about fifteen minutes, as sworn to by Pat Nangle's evidence, which would fix the period of time when Kirwan was standing at the landing-place at about a quarter before eight o'clock.

Kirwan standing near the Martello Tower at a quarter before eight o'clock—The Landing Place.

The phrase "standing by the landing place," was calculated to mislead the jury into the belief that Kirwan was close to the boat when the men came over, and that he was actually stepping into it. It was not so; the spot where Kirwan stood, and which has been shewn to numbers, is on a high bank about fifteen feet above the sea, having rugged rocks between it and the shore, and distant at least sixty feet from the boat.

The Bag.

The bag which this witness said Kirwan carried was examined by the Coroner's jury. It contained knives and forks, soiled plates, and the remains of a ham, &c. It was stated in court that it did not appear what Kirwan had in the bag, and it was suggested to the jury that he might have brought over the bathing dress, an inference not warranted by any proof, and which told strongly against the prisoner. Kirwan advanced a few paces on the bank with the bag, which he gave to Nangle. This circumstance has been magnified into an intention on his part of leaving the island without Mrs. Kirwan. Now, if he had murdered Mrs. Kirwan, and had the folly to go back to Howth *without her*, we appeal to the dispassionate judgment of every man, would he not on the instant of his arrival be questioned; suspicion would be aroused, and on the body being found, he would have been instantly arrested as the MURDERER.

The Sketch-book.—Kirwan at the Martello Tower ten minutes after seven o'clock.

The sketch-book was produced to the Coroner's jury, after Kirwan had given his evidence at the inquest, and had told what he had been sketching. It contained numerous sketches, and, among others, one which Kirwan on the inquest said he had just finished of an *Evening Sunset Effect* of the Dublin Mountains, and part of Howth Hill tinted in *color*. This effect it would be impossible to obtain unless at about sunset, which was twenty minutes before seven o'clock. It can be proved that Kirwan, while he was residing at Howth, was in the habit of sketching at other islands, and was seen

so occupied off Balbriggan and the Skerries. It may be fairly inferred that Kirwan remained for some time to secure his effects while fresh in his memory, this being the usual habit of artists; he also required time to put up his paints, color-box, sketch, &c. Now, allowing him to paint only until sun-down, and then giving him but half-an-hour for the performances detailed, it fixes the period when he must have been presumed to have quitted the Martello Tower for the purpose of committing the alleged murder, at about ten minutes after seven, and he then had to traverse the island through rank grass and fern near three feet high, and then return and be standing on the *bank* at a quarter before eight o'clock.

Discovery of the Body and Sheet.

The same witness, Pat Nangle, proved that "he heard Kirwan, "when they were searching for Mrs. Kirwan, moaning to himself "and crying, 'Oh Maria, Maria!' that on getting down the Long "Hole the *second time* he found the body of the lady, who was lying "on her back. The deceased had a bathing-shift on her, it was "gathered up about her waist leaving the rest of her person exposed. There was a *sheet* under her back which was wet, and so "was the bathing-shift." This witness deposed that when he came to the part about the sheet he was interrupted, and put back by Kirwan. This statement, which tended to convict Kirwan, has since the trial been proved to be wholly untrue, and is contradicted not only by the coroner, but also by six of the coroner's jury.

The most important feature in the whole of the case is the circumstance in reference to the alleged finding of the sheet—"this horrid sheet" so eloquently impressed on the minds of the jury. The first evidence to refute this statement is that of the witness, Michael Nangle, who was the only other person with Pat Nangle when the body was discovered. He contradicted Pat on the inquest, and swore positively that the sheet was brought down by Kirwan himself from the rock; and on the trial he did not state that there was a sheet or any other white thing under the body, but asserted that Kirwan brought down from the rock something white like a sheet, IN WHICH the body was wrapped up.

Mrs. Tate has since the trial sworn that the day after the alleged murder, she spoke to Pat Nangle and said to him, "But, Paddy, "what about the sheet? People say it was under her." He replied, "God bless you, no ma'am. It was the poor gentleman *got "the sheet to cover his poor wife; and no wonder, as she was quite stripped."*

Mr. E. J. Jackson has stated since the trial that he had frequent conversations with the Nangles, and so had Mrs. and Miss Hill, and that Nangle informed him that Kirwan exhibited much grief on finding his wife drowned, and that in reference to the sheet he said that Kirwan appeared ashamed *on seeing his wife stripped and so exposed, and ran for a sheet to cover her.*

The Coroner and six of the Coroner's Jury, all gentlemen of

position and standing in society, have pledged themselves that Pat Nangle gave materially different evidence on the trial from what he gave on the inquest. Their statement has been long since sent to the Castle.

The following extract from the Coroner's letter is conclusive upon the subject, viz.—“I first examined Patrick Nangle; and as to his “evidence that when he was called up, and just as he was about “to detail facts of paramount importance, he was stopped by the “Coroner at Kirwan's desire, I give that statement the most “unqualified contradiction. What did occur was, Pat Nangle said “she was lying with the sheet partly under her, whereupon *Michael Nangle*, the other boatman, who was present in the room, at some “distance from him, interrupted him and said, “*No, Pat, the gentleman brought down the sheet.*” The Coroner here goes on to say “that Kirwan did not interrupt any witness, nor would he be “allowed to do so. Pat Nangle went on with his examination until “he finished, and was asked by me if he had anything further to “add; he said he had not.”—*See Coroner's letter hereto annexed.*

Sword-wounds, Blood, &c.

Pat Nangle gave some extraordinary evidence about wounds and flowing of blood, which he said was from a sword cut, and when asked how did he know there was a sword cut, his reply was, that he SAW IT. The fact in evidence on the trial was that Kirwan had a walking-stick, which he carried with him, and which the witness actually swore was a cane with a *sword in it*, and thus his examination expanded into the belief that Mrs. Kirwan was murdered by a sword. It does appear strange that on testimony such as this, a man's life should be staked; for it not only conflicted with the evidence of the medical gentlemen produced on the part of the Crown, but also with Michael Nangle, the only other person present when the body was found. That any reliance should have been placed on it, or that the jury should have been told to give it any credence, is the strongest possible proof that Kirwan's *character* was his *ruin*. Such evidence would not in other circumstances have been listened to. Can it be conceived as possible that Pat Nangle would tell every particular on the inquest respecting the finding of the body, and would omit all mention of the fact of blood or a sword-cut which he stated on the trial? Having failed to state these circumstances at the inquest, it is impossible to believe that he ever saw what he related in this respect on the trial.

Mrs. Kirwan's Clothes.

Pat Nangle also created a great prejudice against Kirwan by reason of his statement in reference to the finding of Mrs. Kirwan's clothes. He says:—“Mr. Kirwan told witness to go and look for the lady's clothes; witness did so, and could not find them; that the clothes were not in the place where he searched, where they were afterwards found; and that when witness came back after his unsuc-

cessful search for the clothes, Mr. Kirwan rose up from the body, and went to seek for the clothes. He came back in a FEW MINUTES, and told witness they were on the top of the rock. Witness then went up, and found them."

The Top of the Rock.

There are two apparently trivial remarks in this portion of Pat Nangle's evidence, which a little consideration will show were of the greatest possible importance, and tended to mislead the jury, viz.—the phrases, *went up the rock*, and *top of the rock*. The large rock, upwards of twenty feet high, and on the edge of which, (and not on the top,) Mrs. Kirwan's clothes were deposited, is at high water completely surrounded by the tide, and the spot or hollow on which the clothes were laid is covered at high water mark; so that Mrs. Kirwan could not possibly have stripped unless at half-tide, and the rock must have taken some time to dry. The rock on which the clothes were admittedly found is but a few feet ABOVE the strand, not on the top of the rock, but on the EDGE, and there is no doubt but that the phrase, "*go up the rock*," and "*top of the rock*," led the jury to infer that Kirwan must have placed them on the top of the rock.

The Coroner's letter, already referred to, states that the evidence of Pat Nangle, as given on the trial, about going up the rock, was not given to them, and that the evidence he gave to them was inconsistent with what he stated on the trial. His statement before the Coroner's jury was, that he and Michael went up the HOLE, and then came back and could not find the clothes, and that Kirwan then went further up and found them. Nangle did not say at the inquest, as he said on the trial, that he searched for the clothes a second time, and then found them where he had looked before, but did not see them.

Arrangement of Mrs. Kirwan's Clothes.

The appearance which the clothes of the deceased presented is of paramount importance. The basket which Mrs. Kirwan had with her, and which was found on the rock, beside her clothes, was produced by the police on the inquest, and on examination its contents were as follows:—in the bottom, *a large shawl pin*, a pair of garters *laid together*, and a pair of lady's stockings on the top, drawn *carelessly one inside the other*. Now, is it likely if Mrs. Kirwan was first murdered and then stripped by Kirwan, that Kirwan afterwards made all these arrangements which are peculiar to the female sex alone, and which no man would dream of doing?

Mrs. Tate swears that Pat Nangle described to her the natural position of the clothes; her dress and petticoats, to use his own phrase, "*just as she had stepped out of them*"; her boots as she had taken them off, one partly under her clothes, the other at a little distance." These facts, coupled with the admission that there was not the least appearance on Kirwan's person of his dress having

been disturbed, are in themselves powerful evidences of Kirwan's innocence.

This witness admitted that Kirwan lay with his head upon the breast of his wife, and was found in that state when the boat came round the island into the Long Hole,—upwards of an hour, apparently absorbed in grief. If this was acting it stands unparalleled in the history of crime. It is a universal belief that the murderer shuns the body of his victim. In this case, Kirwan lay on the body in a lonely isle for upwards of an hour.

The next witness who was examined was Michael Nangle, and who differed from Pat Nangle about the sheet. On the Coroner's Jury, Michael positively stated that Kirwan brought the sheet to cover his wife, and on the trial (having previously undergone the *process of tuition*) he still fairly admitted on his cross-examination that Kirwan brought back something LIKE A SHEET.

The Long Hole.

It was Michael who asked Kirwan where the mistress was, to which Kirwan replied he had been looking for her, and that he had been up the hill for that purpose; and when asked what way she went, Kirwan immediately pointed to the Long Hole as the direction in which she went. The very act of Kirwan pointing to the Long Hole was not the act of a murderer or a man conscious of crime, because, if he had perpetrated the murder, he would have directed the attention of the men to some other quarter, to elude the discovery of the body. This witness also stated, that in the search Kirwan slipped, and would have gone over a cliff thirty feet high, had he not been caught by Pat Nangle. In reference to the part of the cliff where Kirwan slipped, both court and jury fell into the error of thinking it was the rock in the Hole. It was not so; the cliff where he stumbled was on the east side of the Long Hole, and it was so dark at the time, that he was not able to see his danger; and had Kirwan thus been killed, nothing could have saved the Nangles from being hung. THE CIRCUMSTANTIALITY of the case, to use the jury's phrase, would have condemned them.

Motive for Nangle's Evidence.

Before entering on the other portions of the evidence of this case, it is important to see whether any motive can be assigned for the change which came over the Nangles, and to account for the extraordinary discrepancy of their evidence before the Coroner's jury and on the trial, particularly Pat Nangle's: and it is this. They demanded a large sum of money for their services in bringing over the body of Mrs. Kirwan; they stopped the hearse when coming into town, and but for the police would not have permitted the body to leave Howth. They assert that Kirwan paid but £2 among four of them, and they spoke of his shabbiness, &c.

Mr. Robert Jackson declares that the Nangles offered obstruction,

and demanded payment before the corpse would be permitted to pass. This gentleman also gives some other important evidence.

Catherine Brew swears that she heard Pat Nangle say, "If I am called on again, I will pinch him," meaning Kirwan.

Now, if Kirwan had been conscious of having committed the murder, would he not have paid these persons liberally, and thus silenced their reports?

The Time of the Supposed Murder.

A careful consideration and contrast of the period of time when Kirwan was at the Martello Tower waiting for the boat, and of the period when the alleged murder is supposed to have been committed, is of the greatest importance. Hugh Campbell, in his information, sworn the 15th September, 1852, states, "That on Monday evening, the 6th September last, between the hours of SEVEN AND EIGHT o'CLOCK, P.M., he heard a CALL from the island of Ireland's Eye, which could not be far from where Mrs. Kirwan's body was found."

As near as the evidence of this witness and the others on the trial can fix the time of Mrs. Kirwan's death, it must have been between seven and half-past seven o'clock. Kirwan *admittedly* was standing on the bank near the tower at about a quarter before eight o'clock. If the convict had murdered Mrs. Kirwan, he must have remained in the Long Hole some time to dispose of the body. There was also between him and the Martello Tower half a mile to be traversed over land, *the entire surface of which* was covered with thistles, brambles, nettles, and with fern, which in summer grows to the height of three feet, and which must have impeded his passage. It is therefore extremely improbable, if not impossible, that he could have perpetrated the murder, and be found waiting on the bank a quarter before eight o'clock.

Kirwan painting at seven o'clock.

When Kirwan was asked by the Coroner's jury, what he was doing, he at once replied that he was sketching, and that he was taking the evening appearance towards Dublin. The sketch-book was then called for, and on its being produced, the sketch he showed was a tinted or coloured sketch of the sunset effect of the Dublin mountains, which could only be obtained at sun-down. The sun must have been set. Now supposing Kirwan was thus occupied until near seven o'clock, sun-set being twenty minutes before seven o'clock, and allow him, as before mentioned, some time to arrange his colours, pallet, &c., and to secure his effects while fresh on the memory, is it unreasonable or far-fetched to say that he may be supposed to have been at the Martello Tower at a quarter after seven o'clock? It is not within the limits of reason to believe that he could have between a quarter past seven and a quarter to eight o'clock traversed the island to the Long Hole, (half a mile) committed the murder, and returned—all within half an hour—with not the least appearance of *disorder on his person* or his clothes, although,

if he committed the murder in the interval, he had to contend with a strong and able young woman struggling for her life, who, the jury must have supposed, had neither *hands, nails, or teeth*.

The body was removed to Howth late at night, and when it was made known that Mrs. Kirwan was drowned, it caused a great sensation, and Sergeant Sherwood of the Police, with his men, proceeded to the boat to take charge of the deceased.

Father Hall.

Father Hall, the Catholic clergyman, was there, and he openly stated his suspicion that she was murdered by Kirwan, and pointing to Kirwan, said to Sergeant Sherwood, "*Keep your eye on that man.*" We hesitated for some time making this fact public, lest it might give a religious tone to the case, so much to be dreaded in this country, and might be prejudicial to the object which the friends of Mr. Kirwan have in view; but on consideration we think it best to do so, and for this reason, that the whole of the evidence on which Kirwan was convicted was that of the humblest class in society; and every person at all conversant with the social condition of this country must know what influence the word of the priest has with the people. "*It is law,*" and it is not only probable but morally certain that when Father Hall fixed on Kirwan the suspicion of the murder, every fact which could be elicited and brought forward on the inquest against Kirwan would be proved to make good the the priest's suspicion.

Ill-feeling to Kirwan.

On the inquest, none of the evidence about the appearance of violence on the body was *attempted*, and why? Because the jury were present, and they, Mr. Hamilton the medical gentleman, and the Coroner (all strangers to Kirwan) had the body stripped, and examined it both back and front. Such evidence therefore would not have been listened to, nor dared to be given. To what then must be attributed the subsequent evidence, if not to the fact that Kirwan created a bad feeling against himself by not paying the people as liberally as they expected? If Kirwan had been conscious of murder, he would have paid liberally, and thus secured their silence. The evidence of Mrs. Campbell on the trial, in respect to Kirwan's treatment to his wife, is strangely in contrast with her sworn informations as prepared by the crown, and altogether at variance with the testimony of Mrs. Kirwan's mother, Mrs. Crowe, and the numerous witnesses who have come forward since the trial.

The Cries.

The first witness examined about cries was Hugh Campbell, who said he heard *three cries*. Let us contrast this swearing with his sworn information as before stated. He, on the 15th day of September last, in the crown office swore he heard *a call*; this call, after the lapse of two months, like the story of the three black

crows, expanded into *three cries*. By what magic system of multiplication was this achieved?

Thomas Larkin proved he heard cries as he was sailing into Howth, though the wind was actually blowing in a direction from the boat against the spot whence the cries are supposed to have come. By Larkin's own statement, he was sailing at some distance from the Martello Tower, close to where Kirwan was painting. Kirwan was looking for his wife, and may not his calling out "Maria! Maria!" have been mistaken by Larkin for cries from the Long Hole? It certainly appears a more probable solution of the matter, than to believe he heard cries *against* the direction of the wind.

In reference to the possibility of hearing cries at all, it has been severely tested by several gentlemen who tried whistles, rifles, and hallooing, and who found it impossible that any cry could be heard from the Long Hole, either near the Martello Tower or at Howth. The question has been set at rest by the result of their exertions. Several parties, whose names at present cannot appear, have made trials with the same results.—(*Statement of Captain O'Neil, Messrs. Boyd, Foakes, and M'Intosh.*) Their declaration, of which the Crown has refused to give copies, was sent to the Castle.

The reports about the cries magnified to such an extent, that within a month persons from all parts of the hill were found ready to come forward to give evidence about "*cries*." One woman told a gentleman that she heard Mrs. Kirwan cry out, "Oh! what have I done to be murdered?" and when asked where she was at the time, mentioned a locality near three miles distant from the Long Hole. Then was got up the stories of Mrs. Kirwan's ghost, which told a doleful tale of how she was murdered by Kirwan, and that all good Christians should avenge her.

The Jury were told that if Kirwan was standing near the Martello Tower when the supposed cries of Mrs. Kirwan were heard at Howth and by Thomas Larkin, he must have heard them too. This has been practically found to be wholly *impossible*; and when the formation of the island and the relative positions of the Martello Tower and Long Hole are considered, on every principle of acoustics it is impossible. The island of Ireland's Eye is a mountain 324 feet high, its side on the north presenting a bold and rugged coast, with crags and rocks nearly 200 feet high. This mountain slopes towards Howth, and part of the high ground lies between the Long Hole and the Martello Tower. If a line be drawn from the spot where Kirwan stood to the Long Hole, it would intersect at about one-third the height of the mountain, descend into the hollow ground, and rise again near the Long Hole. The Long Hole is open to the sea on the north side only, and on two sides are precipitous cliffs 30 feet high. Thus the voice should ascend first over the cliffs, descend to the church, and then rise over the mountain, before it could have reached Kirwan, which is thus *practically* shown to be impossible. It appears as if the court had forgotten that there is

always on the sea side, even on the calmest summer's evening, a noise created by the flowing or ripple of the sea upon a shingled and gravelly beach. One of the women, Abernethy, swore on the trial that she told Sherwood, the police sergeant, of the cries she heard the morning before the inquest. It is strange, if she did so, that Sherwood did not bring her forward. There was not a word said about cries on the inquest.

Bloody Appearances.

It is quite evident that the testimony which convicted Kirwan was that of Pat Nangle about the sheet, which has been totally refuted, and the evidence of the two women who washed the body, and who subsequently complained of Kirwan's shabbiness. One of these, Anne Lacy, swore "That there was blood on the face, blood came from the inside of the ears, there was a cut on the right breast, *which was a clean one. The belly was flat to the back bone, and contained no water.* One of the eyes was closed, and the white of it was as red as blood. There was *nothing like the bite of a crab* on the body." This statement on the trial, that the belly was flat to the back bone was evidently suggested from what Dr. Hatchell told the people about the post-mortem examination. It is wholly untrue; the belly was full and firm. The first extraordinary contrast with this evidence is that of Sergeant Sherwood, who saw the body of the deceased *before the inquest*, but did not observe any of these appearances, and did not prove any marks of violence.

Catherine M'Gar, the other woman, mended her hand and swore "That the nose was crooked on her face, and that in reply to Kirwan's request to have the body washed, she said she would not allow the body to be touched till after the inquest."

The testimony of Mr. Hamilton, the medical gentleman who stripped and examined the body at the inquest, is wholly contradictory of these statements. He says the abdomen *was full and firm* (so also say the Coroner and the jury). There were no marks on any part of the body that attracted his attention, and that he did not see *any mark that might be produced by violence.* This testimony was fully corroborated by Dr. Hatchell, who made the post-mortem examination and was examined by the Crown.

The most singular feature in the whole of this case is the total absence of any evidence of violence used towards the deceased, and the fact that the appearance of the body was altogether irreconcilable with a death by violence. Dr. Taylor in his opinion, annexed to this statement, says "There is an entire absence of proof that death was the result of violence at the hands of another."

Depth of water in the Long Hole and influence of wind on the tide.

The next branch of this case is the evidence given by the crown in reference to the depth of water in the Long Hole, which has since the trial been proved to have been altogether erroneous. It was

proved that it was high water at Dublin bar at half-past three o'clock, P.M., and at seven o'clock the tide was one foot nine inches over the rock where the body was found, the rock being one foot high, thus making the depth of water at seven o'clock two feet nine inches. It has since the trial been incontrovertibly established that the gentleman who made the calculation erred, and that his measurements were incorrect. It can be proved to demonstration, that the tide, instead of being only two feet nine inches deep at seven o'clock, was near six feet deep; and Nangle swore on the trial it was five feet deep at half tide, (seven o'clock.) Nangle also states that when he first went into the Long Hole he could not see the body, which must have been covered by the tide, and which was long after seven o'clock.

Mr. Foakes, an English engineer of considerable experience, having had his attention directed to the evidence, went to Ireland's Eye on the 17th December (high water at Dublin Bar being at half-past three). He found the depth of water over the spot where the body lay, at half tide (half-past twelve o'clock) to be six feet three inches, the depth of high water same day ten feet. He says, "Being anxious to test if there was any current receding towards the sea, Mr. Boyd and I undressed, and went into the water, a little after half-tide; when I arrived at about fifty feet from where the body was found, the water being then about up to my breast, I was swept off my feet; and had I not been able to swim, I have no doubt I should have been carried into deep water and against the rock which lies across the channel. I had a thick staff with me, but the current was so strong that even with its assistance I was unable to keep my feet where the water was only four feet six inches deep. I swam as hard as I could, but made little or no way against the receding waves, when Mr. Boyd ran in and gave me the end of a staff he had with him, about eight feet long, to help me out." Mr. Foakes goes on to say that on the 22nd December last, he again went to Ireland's Eye, for the purpose of checking the levels he had previously taken, being convinced from the form and situation of the Long Hole, that the effect of the wind on the sea causes greater variation in the height of the tide *there* than it does in less exposed situations. He found the water at half tide to be four feet eight inches deep over the spot where the head and shoulders lay, and five feet eight inches over the feet, and that the level of low water on that day was about six inches vertically below the former place. The day was perfectly calm and clear, and scarce a ripple was on the sea.

Several scientific gentlemen in Trinity College have proved the inaccuracy of Mr. Jones's statement, and Mr. M'Arthur of Capel-street, engineer, who published a map of the Long Hole, and who made several examinations of the tide levels, has established that Mr. Jones's calculations and measurement were altogether erroneous. Some time previous to the 6th of September last, the wind was S. E., creating a ground swell, which forced a greater amount of water into

the Long Hole, and which swell continues for two or three days after the wind changes: such swell gives an increase of a foot and upwards to the height of tides in Dublin Bay. The Long Hole, from its formation and situation, is for this reason subject to great variation in the height of the tides. The receding tide, when at about half tide, becomes a *rapid and dangerous current*.

It is a singular fact that there is scarce a particle of evidence on which Kirwan was condemned, that has not been found to be either erroneous or capable of contradiction.

The Coroner's Letter.

A most unjustifiable attack having been made on the coroner, Mr. Davis, he, fortunately for the question at issue, "Murder or no murder," has in his own defence given to the world a statement in reference to the inquest, which is supported and affirmed by six at least of the jury. Mr. Davis having most satisfactorily disposed of the charges made against himself, says, in reference to the body of Mrs. Kirwan:—"The skin was pale; there was a scratch on the temple as if from a sharp substance; the eyelids were marked evidently by the *crabs*, as were the ears; there was no cut, or wound, or bruise on any part of the body. *The abdomen was full*; Mr. Hamilton said there was water in it. Mr. Hamilton stripped the body, which was perfectly uncovered before him, the jury, and myself; and he closely examined the head for injuries, but found none. I had no information of a bloody sheet, a bloody sail, of screams heard from Ireland's Eye, of ill-treatment, or of bleeding from the ears and other parts, *nor did I see any marks of violence.*"

Mr. Davis, who has been a Coroner for many years, and has held no less than *twenty-five inquests* on drowned bodies within the *last year*, states his belief positively, that all the marks he saw on the body were made by the crabs, save the scrape on the forehead. His opinion on this subject is beyond question.

Washing the Body.

The statement by Catherine M'Gar, that Kirwan wanted to have the body washed, leaves on the face of it the stamp of improbability, and is answered by Mrs. Campbell, who says, in a Declaration made since the trial, "That Kirwan in the presence of the policeman asked her, Mrs. Campbell, to see that his wife's body was washed, and the policeman having said he did not think there was any occasion to wait for the sergeant; she called the women and told them to wash the body; that the policeman *was standing by* during the conversation, and that the women made *no remark* to her that they thought *violence* had been used." In reference to the sheet she says, "It was wet, but not wringing wet. It was not wet as if it had been dragged in the sea; there were a few small spots of blood on it."

Had Kirwan said what was alleged, it would argue rather innocence than a consciousness of guilt. Had he been guilty, he must

have known that there were some marks of violence on the body which washing would have exposed to view. It is impossible to account for the silence of these women on the inquest.

The Lodgings were taken till November.

It was most improperly put to the jury that Kirwan contemplated the commission of the murder just as he was about to leave his lodgings at Howth. The fact is not so; Mrs. Campbell swears that both Mr. and Mrs. Kirwan told Mrs. Campbell that they would stop till November, and that they paid her by the week only because Mrs. Campbell, who was a poor widow, required the weekly money to support her; and in evidence of the truth of this statement, Kirwan was actually at the time altering and cleaning down his house in Merrion-street, which now lies in an unfinished state.

The Wetness of the Grave.

It was also stated to the jury, that Kirwan provided the wettest spot at Glasnevin for the burial of his wife. Mr. John Leeson has, since the trial, deposed to the fact that he, without Kirwan's knowledge, selected the burying-place, and that Kirwan knew nothing whatever of the arrangement. And it has since been ascertained that the grave in which Mrs. Kirwan was buried was in the driest part of the ground; but at the time the grave was opened the season was uncommonly wet.

Kirwan's Wet Trowsers.

A great point was made of Kirwan's sitting at the fire at twelve o'clock at night and drying his trowsers. The jury were told that he could not have wet his trowsers up to his knees in the Long Hole when he accompanied the Nangles, and therefore he must have wet them when he murdered Mrs. Kirwan, and carried the body as far as he could walk into the water up to his knees. If Kirwan had really wet himself with salt water at about from seven to half-past seven o'clock, the time when Mrs. Kirwan is said to have been murdered, he must have been dried long before twelve o'clock at night. This fact will strike any one that ever was wet with salt-water, and fishermen know well that it would be impossible "*that drops of water*" (as sworn on the trial) would come from trowsers nearly five hours after the wetting by salt water.

The fact was given in evidence on the trial, that when Kirwan was searching with the Nangles for Mrs. Kirwan, he had to walk through the high fern, nettles, and briers wet from a heavy shower which fell between five and six o'clock; and so conscious was Kirwan of innocence, *that he actually turned up his trowsers to dry his drawers*, and called for a dry pair of stockings before the police; and a boy named Carey took off Kirwan's wet stockings. Yet this circumstance has been relied on as evidence of the murder.

Mrs. Kirwan's Health.

Mrs. Kirwan, being subject to a scorbutic affection, was in the

habit of bathing for many years, and frequently twice a day, and would remain for half an hour in the water at a time, as appears by her mother's evidence; and it was at her instance that Kirwan took lodgings at Howth, for better salt-water bathing.

Sea Weed.

The fact of *bits* of sea-weed having been found in Mrs. Kirwan's hair is quite probable, because bits of sea-weed are always floating on the surface of the water, especially in a receding tide; had there been no sea-weed in the hair, it might naturally be said that there was indication of the body having been left where it was found after the tide had altogether receded; but the fact of sea-weed in the hair negatives the statement that Kirwan carried the body and left it on the rock.

Epilepsy.

The important question in this case is, did Mrs. Kirwan die of epilepsy, having taken the fit in the water? The following important evidence goes to establish the fact that she had a tendency to apoplexy or epilepsy during life:—

Mrs. Bentley, a lady of respectability, and on terms of intimacy with Mrs. Kirwan, in her declaration, made on the 22nd December, 1852, states "That about two years and nine months ago, Mrs. Kirwan told Mrs. Bentley she had been quite suddenly attacked with trembling of her entire frame—her knees knocked violently together, her teeth became clenched, she lost all power to move, and, when she recovered, she was unconscious how long she remained in that state; that subsequently she told Mrs. Bentley that on Mr. Kirwan going into the bed-room, he found her suffering under a similar attack, and he was just in time to catch her in his arms, &c."

Anne Maher, who had formerly lived with Kirwan and his wife as a servant, in her declaration, made the 16th December, 1852, states "That she was attracted by loud screaming up stairs, and when she went up she found Mrs. Kirwan working in a fit, her arms, hands, and legs working violently as if in convulsions, and froth coming from her mouth; that during her stay with Mr. and Mrs. Kirwan they lived on very affectionate terms."

The next evidence is that of Arthur Kelly, who in his declaration made the 16th December, 1852, declares "That he remembers Mrs. Kirwan to have been attacked with two fits; he saw the deceased lying on the floor, working in a fit." This witness also deposes to the convict's kindness to his wife.

The next evidence is that of Mr. Thos. Harrison and his son, who, in their declaration made the 22nd December, 1852, state "They were on terms of affectionate and constant intercourse with Mrs. Kirwan, that deceased frequently complained of dizziness of sight, confusion of ideas, and always spoke of her husband in the kindest terms."

The last witness is Ellen Malone, who had been in the service of

Mr. and Mrs. Kirwan. In her declaration, made the 24th December, 1852, she states, "On one occasion, about six months before I left Mrs. Kirwan's service, and whilst she was sitting in a tin bath of luke-warm water, Mrs. Kirwan told me she felt her senses leaving her, I perceived her face turn suddenly very red, and she became insensible, &c.—See Document No. 4.

Medical Opinions.

The medical portion of the case is conclusive upon the point that Mrs. Kirwan died of a fit of epilepsy while in the water; and if a reasonable doubt existed upon the subject, it has been set at rest by the paper of Dr. Alfred Taylor, of Guy's Hospital, London, the author of a standard work on medical jurisprudence, quoted in all criminal courts in the Empire, and who is considered the greatest medico-legal opinion in England. The evidence given on the trial was "That the right and left cavities of the heart and all the large vessels leading to the heart were *wholly empty of blood*." Mr. Hatchell also proved "that the interior of the body was free from decomposition." One of the most striking characters of asphyxia, including death from *drowning, hanging, strangulation, and suffocation*, is a distension of the RIGHT cavities of the heart, and of the large blood vessels connected with these cavities, with black fluid blood. In the case of Mrs. Kirwan, the heart was WHOLLY EMPTY. The conclusion come to by Dr. Taylor is, that Mrs. Kirwan died from the effects of a fit of epilepsy while bathing.—See opinions annexed to this statement.

Surgeon Rynd's evidence, and the certificate of the most eminent medical gentlemen in Dublin, which Dr. Geoghegan, the Police medical referee, has dared to insinuate is not a genuine document, goes to establish this fact.

Some of the medical evidence on the trial went to shew that the deceased died of congestion of the brain, caused by drowning in connection with epilepsy. Congestion means nothing more than the overflowing of the surplus quantity of blood in the veins which had been poured out from the heart, as in the case of the deceased. The following is a medical analysis of the case:—

Appearances the Body would present if Mrs. Kirwan's death was caused by Simple Drowning.

Frothy mucus in the trachea, tinged with blood.

Congestion of the lungs. The *right* side of the heart, and of the great blood vessels connected with it, full and distended with black fluid blood.

Water in the stomach.

Evidence on the trial.

A white froth, *untinted* by blood, issued from the mouth.

The heart was healthy and *empty* both at the *right* and *left* side; as were also the large vessels in connection with it.

There was no water in the stomach.

Appearance which the Body would present if death was caused by Strangulation or Suffocation.

The *right* cavities of the heart and the large blood vessels connected with them would be distended with black fluid blood.

Bloody froth from the mouth and nostrils.

A bloated and livid condition of the face.

Permanent marks of the strangulation or compression.

Appearances which the Body would present on a post mortem examination from death by Epilepsy.

Both cavities of the heart and large blood vessels in connection with them would be wholly empty of blood.

The face pale.

Evidence on the trial.

Both cavities of the heart, and the large blood vessels in connection with them, were entirely empty.

A white froth, untinged by blood, issued from the mouth.

The countenance was pale.

There were no marks of violence of any kind.

Evidence on the trial.

Both cavities of the heart and the large blood vessels in connection with them, were entirely empty of blood.

The countenance was pale.

Crown Medical Evidence.

The medical evidence examined on behalf of the Crown was Dr. Hatchell, who proved there were no marks of violence on the body of the deceased, &c. His knowledge was derived from a *post mortem* examination, made thirty-one days after death, and his opinion and that of medical men is, that the protrusion of the eye, tongue, &c., was the natural result of decomposition.

Dr. Geoghegan.

The *Dublin Medical Press* of the 26th January, 1853, contains a lengthened paper, written by Dr. Geoghegan, the police medical referee, who had been consulted by the police, but who never saw the body of the deceased, and though purporting to be a medical review of the case of the *Queen a. Kirwan*, appears to partake more of the character of a prejudiced advocate struggling to uphold the verdict. It appears he had a body soaking in water for thirty-one days, and from the examination and appearances of this subject he must have drawn his inferences, because he deals largely in such phrases as *intense livor of the surface, lividity of the face, &c.*, not one word of which was given in evidence on the trial, but are of the utmost importance to support his view of the case, and his opinion that Mrs. Kirwan was strangled. Is this just?

Dr. Taylor says that a bloated and LIVID condition of the face would be a necessary consequence of strangulation or compression, and that the *absence* of such in Mrs. Kirwan's case negatived the assertion that she was either strangled or stifled. So much for Dr. Geoghegan's impartial medico-legal opinion. The physiological fact

in reference to the heart being entirely empty of blood, he appears to have slurred over.

His Opinion that the Deceased was Strangled.

Dr. Geoghegan says that Kirwan first strangled Mrs. Kirwan, and then placed the body on the rocks where it was found. It is not within the scope of ordinary reason to believe that Kirwan would have placed the body on the small rock where it was found, there being between such rock and the sea a large ridge of rocks; and Kirwan, to have done so, must have waded through upwards of forty feet in extent of water, which for more than half the distance was about five feet in depth. Under such circumstances, every article of dress on his person must have been saturated with wet; nor could he have held his ground against the current, which would have taken him off his legs. It is inconceivable how any man could think that a husband would expose a young and lovely woman in the manner in which Mrs. Kirwan was found, with her bathing chemise drawn up to her neck.

When Dr. G. penned this so-called medico-review, he had before him the evidence elicited SINCE THE TRIAL. Further comment is unnecessary.

The important public question involved in this trial is, Has justice been done to Kirwan? has he been tried?

The Judge's Charge.

Judge Crampton's words, as reported in *Saunders*, were—"The question they had to try was simply, Was that an accidental death, or was it designed by a felonious hand? He thought he might say, by the hand of the prisoner at the bar, *because there was no other person on the island by whom it could have been effected.*"

No doubt, the evidence of Nangle (if he is to be relied on) went to the extent that there was no person on the island *except Kirwan*; but the judge and jury must have been altogether ignorant of the local position or physical formation of the island, if they believed him; and they must have believed him, or Kirwan would not have been found guilty. A fleet of fishing boats could be anchored behind the island; many hundreds of men could be secreted under the high rocks and cliffs on the north side of the mountain and not be seen; and since the trial the most extraordinary facts have come to light. The first of these is, that Mr. M'Gregor, a barrister, resident in London, saw, at the time the alleged murder was committed, a number of fishing boats lying becalmed off the spot where the body was found.

Another Man upon the Island.

It has been also ascertained that another man was on the island at the time of Mrs. Kirwan's death, and that he secretly got into Howth, one of the fishermen having brought him across. By his

own account, he next day went to Liverpool with cattle, and from Liverpool to Waterford.

This man was traced by very singular means, unnecessary to detail, and was found living in Nicholas-street; and when discovered, he said that Kirwan was as innocent of the murder as the child unborn; and when asked why he had himself absconded, he replied he was afraid of being implicated himself. This man has since left Dublin, and no trace whatever can be found of him.

Copy of Mr. Steele's Declaration.

"I, William Steele, of Bayview, Clontarf, do solemnly and sincerely declare that I was conversing with Mr. Smith, in his own house in Grafton-street, on Wednesday the 5th of January inst. when Mr. Robert Bentley introduced into the room a man named John Gorman, who, in the presence of Messrs. Smith and Bentley, and subsequently in that of the Rev. Mr. Malet, made certain statements to the effect that he was on Ireland's Eye on the whole day of the 6th of September, 1852, and after the body of the late Mrs. Kirwan was removed; and that William Burke Kirwan was as innocent of the death of the late Mrs. Kirwan as the child unborn; and on addressing himself to me said, 'He's as innocent as you are,' and which said statements I reduced to writing in the presence of said Gorman; that upon leaving the house he, said Gorman, told me he would expect to see me at his lodgings, No. 32, Nicholas-street, on that evening, in reference to his statements; and that I called on said evening, and repeatedly since, at said house, but never again saw said Gorman, and that I was informed yesterday by a lodger in said house that said Gorman had left same.

"WILLIAM STEELE.

"Declared at College-street Police Office, this 12th day of January, 1853."

Letters from the Jury.

Two letters have appeared since the trial, purporting to have come from the jury, one of them, signed by Mr. Dennis, the foreman, on behalf of himself and ten of the jury. There are some remarkable passages in these letters.

The following extracts have been selected from the letter signed by Mr. Dennis which appeared in *Saunders' News Letter* of the 13th January, 1853, evidencing what had been passing in the minds of the jury. Mr. Dennis says:—"Seeing the two men, Patrick and Michael Nangle, and hearing the evidence, we could form no reasonable doubt of the truth of either of them. They are both elderly men. Michael appears older than Patrick, nor is he by many degrees so observant or so intelligent a man. Patrick Nangle's account of his finding the body with the sheet partly under it, and his tying it across the chest and knees, is perfectly consistent with all the circumstances of this particular period."

If the jury had before them the statements of the Coroner, and

six of the Coroner's Jury, and the facts disclosed in the affidavits and declarations herein alluded to in reference to Pat Nangle, it is not probable that they could possibly have formed such an opinion.

Mr. Dennis asserts that "some of Kirwan's *innocent offspring* "and the partner of his crime were living in the house where his "deceased wife had resided within a month after her death." If Miss Kenny had been examined on the trial, this circumstance would have been fully explained, and the mind of the jury disabused of such belief. Miss Kenny stated in the Crown office that she was obliged to bring her sick child into town for a few days, but that she did not sleep in the house. Like all the reports about Kirwan, it was a shameful falsehood. It was also publicly stated that Kirwan had married Miss Kenny a day or two after the alleged murder, and this report evidently weighed with the jury.—*See Miss Kenny's declaration hereto annexed.*

Again, Mr. Dennis says:—"True, it was not sworn that the body "of Mrs. Kirwan was the body of a murdered woman. Proved to "have been murdered, she must have been murdered by Kirwan."

With every respect for the just privileges of the jury box, it was going too far to say she must have been murdered by Kirwan. Five hundred men might be secreted on the far or north side of the mountain, hid under the rocks, some of which are nearly 200 feet high—the mountain itself being 324 feet high, and there were several fishing boats becalmed off the Long Hole at the time of the alleged murder.

Again, Mr. Dennis says:—"We do not believe that Mrs. Kirwan "died in a fit of epilepsy, nor do we believe that had she so died "she could have uttered such repeated screams as were heard "at Howth; therefore all this special pleading falls to the ground." As has been already stated, Mrs. Kirwan had fits of epilepsy during life, and Kirwan *noted the fact before the trial*, in one of the briefs now in the possession of a gentleman, and ready at any time to be produced. If Anne Maher, Mr. Kelly, or Mrs. Bentley had been examined on the trial, this fact would have come out.

The following extracts are from a letter from one of the jury, published in the *Freeman's Journal*, 20th January, 1853:—"It was "evident that about that hour, (five minutes after 7 o'clock,) the "unfortunate lady had been decoyed to the spot where her bathing "cap was found, and then thrown down, the *damp sheet* held forcibly down upon her face, whilst her murderer knelt upon her "belly, and that in her struggles to tear the sheet off her mouth, "*she tore the ear-ring out of her ear*, and scratched her own face and "neck. As soon as resistance ceased, he (Kirwan) *stripped* the body, "attiring it in a bathing shift, then carried the body into the water "in the Long Hole, as far as the depth of his own knees, and "committed it to the ebbing tide."

The Ear-ring.

It is lamentable that the jury should have fallen into the error

that the ear-ring was pulled out of Mrs. Kirwan's ear, for the ear-ring, before the coffin was screwed down, was taken out of the ear of deceased at the request of Mrs. Crowe, her mother, who was present, and given to her. The other ear-ring was found by Dr. Hatchell in the ear one month afterwards, at the post mortem examination.

The Long Hole.

In reference to the Long Hole, and the ledge of rocks which goes nearly half way across, and where the body was found; the first time Mr. and Mrs. Kirwan went to Ireland's Eye, Mrs. Kirwan asked the men to go round the island, which they did, and landed in the Long Hole; and it may be reasonably presumed that Kirwan knew of the rocks, because the boat was steered so as to avoid them. Kirwan knowing that rocks were there, is it likely he would have carried the body into a place where it must have been stopped? One would almost incline to the opinion, that the jury lost sight of the fact that Mrs. Kirwan had on her bathing boots. Did Kirwan put *them* on and *lace them*?

Mrs. Kirwan's Clothes.

If Kirwan first murdered Mrs. Kirwan, and then carried the body as described by the jurymen, what an admirable arrangement he made of the clothes—"just as she stepped out of them," to use Pat Nangle's phrase; and with what exquisite care and nicety he arranged all the smaller articles of her dress in the basket! No lady's maid could have done it better, the shawl pin carefully put by, the garters lying together, and one stocking drawn within another. But though this foresight and cunning were great, they were nothing in comparison to the activity he displayed; for all the acts of the tragedy must have been commenced and concluded in less than twenty minutes. And with what remarkable coolness too! for having walked across the island through the wet fern, he was actually waiting for the boatmen at about a quarter before 8 o'clock, half a mile from the scene of the alleged murder, and not a spot of blood on his hand or face, not a scratch on his person, his very shirt collar unruffled, "no mark of violence on the deceased."

No Marks of Strangulation.

That Kirwan could not have strangled his wife is evident from the fact that Dr. Hatchell found nothing to warrant the assumption from any appearance of the trachea and vertebræ of the neck, and the supposition of her having been stifled with a wet sheet pressed on the mouth is inconsistent with her cries; for it is impossible that any one could cry out with a sheet pressed on the mouth, either wet or dry; and it may be asked, "How came a *wet* sheet on *dry* land, and where were Mrs. Kirwan's hands, nails, or teeth, that she died so easily—she who was a strong, healthy, young woman?" This is really absurd. Again, we find the following:—"Kirwan was a bad

"husband. Nobody not a fool or a knave could pretend to believe "that such appearances were compatible with death by *drowning* "or *epilepsy*." This latter opinion is not very complimentary to Doctors Taylor and Rynd, and the other medical gentlemen who signed the certificate. And from the statement that "Kirwan was a bad husband," it must be evident that Kirwan's character and the slanders which were circulated against him, charges of wholesale murder, &c., which Mr. Butt in his able speech to the jury properly observed had poisoned the public mind, led to his condemnation. His character was his ruin. If the exposure made of the charges brought against Kirwan for the alleged murders of *Crowe* and *Bowyer* had been made before the trial, it is not too much to say that Kirwan would have been acquitted.

If Miss Kenny had been examined, and had admitted that her brother wrote for her to go to America in 1847, and that Kirwan wanted her to go, and offered to give her money to support and educate the children, (then four in number,) or that he would keep them here, would it not have given a very different colouring to the case?

The question now really is, and it is one of great public importance, had Kirwan a fair trial? and was the evidence on which he was found guilty (having reference to the facts herein disclosed) so free from taint or suspicion as to justify his conviction?

The most remarkable feature in the case is the fact, that the judges who tried the case were the parties who applied to the executive for a commutation of the sentence. Kirwan is either guilty or not guilty. If guilty, such a monster should not have been permitted to encumber the earth. If innocent, how terrible his doom! And that no murder was committed, we have the evidence of Dr. Taylor and of many able and talented medical gentlemen of England and Ireland; their opinion being, that the medical evidence is wholly irreconcilable with death by violence, and that it goes to rebut such a case.

It is perfectly clear that the executive found itself placed in a difficult position, in consequence of the interference of the judges who tried the case, and who induced the crown to extend to the convict the Royal clemency. The verdict was either such a verdict as could be acted on, and the full penalty of the law enforced against the prisoner, or it was a bad verdict, and ought not to be acted on. The latter may be assumed from the fact of the interference of the judges so immediately after the trial, and before the evidence herein detailed was known; and it must be evident to every one that the judges had some doubts upon their mind as to the correctness and legality of the verdict. Under such circumstances, it would be more consistent had the sentence been altogether remitted, and it is quite clear that if there was a Court of *Criminal Appeal*, the judges would have *granted a new trial*; and it is equally clear that if Kirwan were tried again, he must be acquitted. In the annals of criminal jurisprudence it was never known that a party was murdered

by violent means, where no marks of violence were found either on the body of the deceased or on the person of the alleged murderer.

The public mind of Dublin has been so prejudiced against the convict, by means of the false and slanderous reports circulated by the Dublin press, who denounced Kirwan as a wholesale robber and murderer, and who, with the exception of the *Warder* newspaper, refused publicity to his vindication, a circumstance unparalleled in the history of the press, and such as we trust may never again occur. The circulation of these libellous and cruelly false statements has made it a hopeless effort to obtain sympathy or even a patient hearing for the wretched man in this city. An appeal is therefore made to English justice, not altogether on the behalf of the convict, but on public grounds, and to vindicate the constitutional laws of England. Kirwan's case is the case of every man; for who is safe against the combined effects of slander and conspiracy?

It may be observed in conclusion, that the affidavits and declarations referred to, with the exception of those annexed, have been published in a separate pamphlet with a Report of the Trial.

J. KNIGHT BOSWELL,

4, Saint Andrew-street, Dublin.

February 28th, 1853.

APPENDIX.

No. I.—*Letter from Mr. Wynne, Under Secretary to His Excellency the Earl of Eglinton.*

TO THE EDITOR OF THE DAILY EXPRESS.

SIR—In consequence of the many different and erroneous reports which have been circulated respecting the commutation of the sentence of death lately passed on Mr. Kirwan, I beg to inform you that Lord Eglinton acted on the recommendation of Judge Cramp-ton and Baron Greene, and with the concurrence of the late Lord Chancellor, and that he neither solicited nor received the advice of any other person whatsoever.

Your obedient servant,

JOHN WYNNE.

January 25, 1853.

No. II.—*Letter from Henry Davis, Esq.*

The Coroner, Henry Davis, Esq., who held the inquest on the body of Mrs. Kirwan, has addressed the following letter to an evening contemporary, in vindication of his conduct in the case:—

Donecarney, Jan. 24, 1853.

SIR—I have read so many articles in different newspapers on this subject, that I did hope it was altogether exhausted; nor should I now appear in print, had the writer of a letter in your paper of the 20th instant, who subscribes himself "Memor," and whom you state to be a Professor at one of the Queen's Colleges, confined his remarks to the office of coroner generally, and not made an attack on me as to the manner in which I conducted the inquest on the late Mrs. Kirwan.

With his remarks as to the necessity of reform in the coroners' courts, I fully concur; but he must not support his argument on that subject at my expense.

I shall answer his letter, giving my own name and the names of others, who, if I mis-state anything, can correct me; and I shall show that in the whole transaction I did my duty, and held the inquest properly.

On the morning of the 7th of September last, I received from Constable Robert Sherwood, of Howth, a report of the death of Mrs. Kirwan, dated the 6th, wherein he states "That Mr. Kirwan

and his wife, on that morning, went from Howth to Ireland's Eye in a boat, on a pleasure trip (they being alone), and, when on the Eye, Mrs. Kirwan desired the boatmen not to come for them until eight o'clock in the evening, at which time the boat and men arrived at the Eye, when Mr. Kirwan stated that Mrs. Kirwan went to bathe about six o'clock, and that he was in search of her. The boatmen, with Mr. Kirwan, went in search of her, and found her drowned at the east side of the Eye, with marks of violence on her face, &c. This case appears strange, as there was a sheet about the woman when found. Please come as soon as you can."

On this information I proceeded to Howth, and found the body had been removed the night before to the house she had resided in at Howth.

Mr. Cradock, the Sub-Inspector of the Constabulary, within whose jurisdiction Howth is, was present. A jury was summoned by a precept from me, and was for the most part composed of highly respectable gentlemen.

Now, sir, I did not, as your writer charges me, "depute a medical student to inspect the body, as if there was no medical gentleman in Howth, whose diploma would have given a presumption at least that he was competent to undertake so serious a duty;" but, knowing there was no medical practitioner residing in Howth, I directed a policeman to proceed at once to Baldoyle, where I was aware the nearest practitioner resided, a distance of perhaps two miles. He returned, and stated the doctor was away in Dublin, and would not be home until evening. There was no other medical practitioner residing nearer than Clontarf or Malahide, either distant from five to six miles.

I was then informed that a medical gentleman was lodging in the town of Howth, whom I directed to be sent for; not knowing at the time that he was a medical student who had not taken out his diploma. I had examined the body myself previously, and although not a medical man, yet from an experience of upwards of ten years, meeting constantly with cases of persons drowned, as many as *twenty-five* within the *last twelve months*, I was satisfied there were no marks of violence on the body.

The skin was remarkably pale; there was a scratch on the temple, as if from a sharp substance; the eyelids were marked, *evidently by the crabs*, as were the ears. There was no cut, or wound, or bruise on any part of the body. The nipples of the breast were slightly marked, as if from the same cause, and a very slight oozing from them of a watery substance. *The abdomen was full*, which I remarked to Mr. Hamilton, the medical student, who said *there was water* in it.

Now, sir, up to this period, the only suspicious circumstances were the time when and the place where the body was found. The constable, Robert Sherwood, when asked by me, stated that there were no other suspicious circumstances in the case; if there were, it was his duty to report them to me.

The case stood thus:—A lady lying dead, who, having gone with her husband to spend the day on Ireland's Eye, she herself telling the boatmen what time to return for them; they return at the hour appointed, and are told by the husband that she had gone to bathe at six o'clock, and that he was in search of her, when they join in the search and find her dead, with her bathing dress and bathing boots on her; a husband against whom not the slightest charge was made. I say, if the medical student did come when I sent for him (and it turned out that he had not as yet taken out his diploma), a medical student of *six years standing* was quite competent to make a superficial examination of the body, and I would not be justified in ordering a *post mortem* examination under the circumstances.

Were I to do so in the numerous drowned cases which I have to investigate, the grand jury and the public would at once exclaim against me, and I would be required by the grand jury to show why in such cases I had *post mortem* examinations, as they did lately in the case of infant children, where the first thing I had to do was to ascertain by a *post mortem* examination if the child was born alive.

But this medical student not only "glanced at the body," as your writer states, but he examined it seemingly with care. He not only "looked at the face," but before walking away, as "Memor" states, *he stripped the body, which was perfectly uncovered before him, the jury and myself, and he closely examined the head for injuries, but found none.*

"Memor" finds fault that I did not know the body had been washed; I was not informed of it; I had no information of a bloody sheet, a bloody sail, of screams heard from Ireland's Eye on that evening, of ill-treatment of his wife by Kirwan, of bleeding from the ears and other parts, nor did I see any. I had but the evidences of the two boatmen, and Mr. Brew.

I first examined Patrick Nangle, and, as to his evidence, your writer says, "that when he was called up, and just as he was about to detail facts of paramount importance, he was stopped by the coroner, at Kirwan's desire." I give *that statement the most unqualified contradiction*; and if Patrick Nangle swore at the trial, as "Memor" charges, that "I was at the inquest, but I was not allowed to speak at it; before I came to that part of my evidence about the sheet, I was put back by Mr. Kirwan's directions; I had not mentioned about the blood, nor about the way I tied her up, when I was stopped; I said nothing at the inquest about Mr. Kirwan pointing to where the clothes were, because I was ordered to draw back;" *he swore what was totally untrue.* I appeal to every one of the jury—to the sub-inspector, Mr. Cradock—to any person who was present, if such was the fact. What did occur was, when Patrick Nangle, in his evidence, came to the finding of the body, he said she was lying with the sheet partly under her; whereupon Michael Nangle, the other boatman, who was present in the room, at some distance from him, interrupted him, and said,

"No, Pat, the gentleman brought down the sheet;" then Kirwan "said, in an excited manner, 'That man (Pat) is wrong—the other man tells the truth.'" I then told Michael to keep himself quiet, and when it came to his turn to be examined, I would have his account of it. Michael was vexed, and said something about telling what he knew when it came to his turn; further, Kirwan did not interrupt any witness, nor would he have been allowed to do so. Patrick Nangle went on with his examination until he finished, and was asked by me if he had anything further to add. He said he had told all, and on my reading over his information to him, I asked him had he anything more to say? He said he had not. Michael Nangle was then examined, and gave his account of the finding of the clothes by Kirwan, and the reason of Kirwan having found them, because he went higher up on the rocks than they did.

Your correspondent proceeds to say:—"This interruption or suppression of the evidence was at the direction of the only person to whom any suspicion could be attached, and *a fortiori*, the only one who could have rendered the inquest at all necessary: but ulterior proceedings were demanded, and they were taken." If, sir, at the inquest, evidence was withheld that could have been given; if on a subsequent trial evidence given before the coroner be partly suppressed or amended, the coroner and his jury are not to blame.

Suppose a case:—A gentleman and his wife, whose characters are unimpeached, living apparently happily together (and we had no reason to believe Kirwan and his wife were otherwise), the wife a remarkably handsome young woman, lodging for six weeks in Howth during the summer months, going frequently to Ireland's Eye to spend the day, taking with them their dinner, he with his sketch-book, she with her bathing-dress; she tells the boatmen as she did on other occasions, to return for them at eight o'clock in the evening; they do so, and are told by the husband that his wife had gone to bathe about six o'clock, that she had not returned, that he was uneasy about her, and had been looking for her; that they all proceed to search for her, and find her lying dead, near the place where ladies are in the habit of bathing when on the Eye (it was so sworn before me), without marks of violence,—the scratch on the forehead, and the marks left by the fish on the eyes and ears, excepted;—and you have the case presented to me and the jury at the inquest.

Kirwan's character was his ruin. I held the inquest on the 7th of September; it was published in the newspapers on the 8th, and on the 9th a person was with me, in consequence of having seen an account of the inquest in the papers, to swear an information that there were good reasons to believe Kirwan made away with his wife—grounded not on anything that occurred on Ireland's Eye, not on anything that occurred at Howth, but on *acts of Kirwan's, alleged to have been committed by him years before.* There was sufficient in the information to excite suspicion, where none existed before, and to warrant me in putting myself in communication with Mr. Cradock, the Sub-

Inspector of police, which I did that evening, when that gentleman instituted further inquiries about Kirwan, and proceedings were taken which ended in his conviction.

It was after this communication to Mr. Cradock, that evidence was obtained of the flow of blood from the ears and other parts—of screams from Ireland's Eye that evening—of blood on the sheet—of blood on the sail—that he was a bad husband—that they lived unhappily together,—and that he had a mistress by whom he had a number of children, who took Mrs. Kirwan's place shortly after her death; and because, forsooth, the coroner and his jury do not know all this, and do not bring in a finding of "guilty of murder" against Kirwan, "Memor" says—"What can the judges and the law officers of the State do, if coroners so grossly neglect their obvious duties, or are ignorant of the use of those powers put at their disposal, and of the great responsibility of their office; if proceedings slovenly devised and carelessly conducted are suffered to go on in the old track?"

I give no opinion of the guilt or innocence of Kirwan. I only justify my conduct as a public officer, and I maintain that the inquest was not slovenly or carelessly held, and that the verdict of the coroner's jury was a proper one on the evidence produced before them. As it has been rumoured, amongst the other fabrications concerning this case, that I was a friend or relative of Kirwan's, I beg to inform you that I never saw him or Mr. Hamilton, the medical student, until the day of the inquest.

I have used the expression that the marks on the eyes and ears were *evidently from the crabs*. This to many may require explanation. It is the small green crab that frequents the strand, and is sure to attack a dead body—the eyes first. I have met with cases showing their marks in all stages, from a body not an hour in the water, having only the eyes touched, up to the head completely deprived of all flesh, and the skull as bare as if it had been underground for years.

Your obedient servant,

HENRY DAVIS, A.M., T.C.D.

Coroner of the County of Dublin.

No. III.—Mr. Boyd's Statement.

TO THE EDITOR OF THE DUBLIN "WARDER."

SIR,

Having been foreman of the coroner's jury which inquired into the cause of Mrs. Kirwan's death, I think I have a right to claim a short space in your columns, especially as it appears to me many inaccurate statements respecting the appearances of the body of the deceased, and relating to other circumstances, have found their way into the public journals.

Without setting out in detail any of the statements to which I refer, it will be enough to describe the body as it appeared on the day of the inquest, and to negative, as I proceed, the several inaccuracies to which I refer.

When I first saw the body, it was on a bed in Mrs. Campbell's house, covered with a sheet, which was removed. It exhibited no marks whatever which might be occasioned by blows or pressure; it was white and fair; there was a blackness along the side near the back, but this did not arise from any external injury, as the skin was not hurt or bruised in any way; the eyelids, and the tender flesh under the eyes, were raw, as if the skin had been caught bit by bit between the nails and plucked away, leaving here and there *small pieces untouched*. The coroner said those were *crab marks*, and *they appeared to me to be so*. The face was *pale and placid*, and did not exhibit the appearance of violence; the forehead, on the right side, had a slight scratch as if it had been rubbed on a rock. Excepting the marks on the eyes before alluded to, they presented a natural appearance; *neither of them was starting from the socket*; the nose was *not swollen or bruised, or bent over* on the side of the face; the lips did not appear to be swollen, there was a little white foam over them; *the tongue did not protrude* from the mouth, nor was it visible; the ears were marked in the same manner as the eyes, but they were not torn, nor was *there a piece* of the lobe hanging on only; the ear-rings were in the ears. Except the marks I have described, there were no other scrapes or scratches of finger nails or anything else on the face or neck; a little blood appeared in the inside of the ears; the nipples of the breasts were cut in the same manner as the eyes and ears; the stomach was full and rather swollen, it was not hollow as sticking to the back-bone; the hands were not clenched; there were no marks whatever on any other part of the body. I understood that Mrs. Kirwan was in the habit of having her hair cut short, save a small portion of the front, and it was so represented to us. Had there been no sea weed in the hair, and there could not have been any quantity as the hair was short, I would have inferred that the body must have been *left* where it was found after the tide had receded; but such could not have been the case, as Michael Nangle stated to us that when he and Mr. Kirwan first went to the Long Hole they could not get down into it, as the tide had not fallen sufficiently to permit them to do so. It is a mistake to assert that there is no seaweed in the Long Hole except at high water mark; bits of sea weed are constantly floating about in it as elsewhere round the island.

We were not told at the inquest that the body had been previously washed, nor was any remark made about a sword cane, or a sword cut, or that blood had flowed from the body. It seems to me incredible that, had there been any great flow of blood, the women and police who saw the body before washing, and who were present at the inquest, would not have mentioned the circumstance. How Nangle, who described so minutely on the inquest the position of the body and all other appearances, *omitted* to tell us altogether

about the sword cane and sword cut, and about the quantities of blood, which he alleged on the trial, I cannot imagine. I feel satisfied that he gave his testimony to us as one who believed that Mrs. Kirwan had been drowned and not murdered. He told us all he had to say and he so stated to the coroner. *There were not the least grounds for his observation on the trial that he was put back at the inquest by Mr. Kirwan's directions*, and prevented giving his evidence.

The evidence given by the two Nangles on the inquest respecting the sheet was contradictory; the one asserted *positively* that Mr. Kirwan brought down the sheet and a shawl, and wrapped the body in them; the other said the sheet was partly under the body when he found it, but he subsequently stated he was confused at the time and *could not say whether he might not have been mistaken*.

The witnesses stated to us no suspicious circumstances respecting the finding of the clothes; they said Mr. Kirwan went further up the Long Hole than they did, and found them, but they added nothing more. The position and appearances of the clothes, as stated to us, led us to form a conclusion that Mrs. Kirwan must have quietly and deliberately undressed herself; have taken off her boots and put on her bathing boots, and have arranged her stockings and her clothes without disturbance. Her reticule basket was produced to us as it was found beside the clothes; in it lay, in the bottom, her shawl-pin, her garters, and on the top her stockings drawn carelessly one inside the other. Her bonnet was beside the clothes; and since the inquest her black lace cap, a small looking glass and a rack comb were found on the same rock close to where the clothes were.

Mr. Kirwan's bag was also produced to us, containing a piece of ham, some bread, knives, forks, and plates, which were dirty from use.

After Mr. Kirwan was examined, and told us what he had been sketching, we required his sketch to be produced; it represented the evening appearance of the Dublin mountains, and must have been taken near the Martello Tower on the island, where he had previously informed us he had been employed.

Pat Nangle informed us on the inquest that there must have been between five and six feet of water in the Long Hole, over the place where the body was found, at the time when Mrs. Kirwan went to bathe. I am very well acquainted with the place, and I believe this measurement to be quite correct.

There are many *other circumstances* which, as represented to us, and as they were given in evidence on the trial, do not at all coincide; but I would be extending this letter to an unreasonable length if I entered upon them. I do not address you for my own vindication; it is the truth which I would wish to be made public, and I come forward impressed with the conviction *that had all the facts submitted to the jury who tried Kirwan been laid before them*, as we saw and heard them, they would have given a verdict other than that under which he is now suffering. My firm conviction is, after having my-

self seen the body as I have described it; after having heard the Nangles' account at the inquest; after having considered the place where the body was found, and the depth of water at the time of bathing; after having been told such facts as convinced me that there was no hurry or confusion in Mrs. Kirwan's undressing; and after hearing the opinions of many eminent medical men expressed since the trial,—that the body of Mrs. Kirwan was not the body of a murdered woman.

ALEX. BOYD.

No. IV.—*Declaration of Teresa Kenny.*

I, Teresa Kenny of Dorset-street, in the city of Dublin, spinster, do solemnly and sincerely declare that I was examined by Major Brownrigg, in his office, Lower Castle-yard, some time about the 6th of October, 1852, and previous to the trial of the *Queen a. Kirwan*, and that in reply to one of the questions put to me, viz.—“If I was married to Mr. William Bourke Kirwan?” I distinctly told him I was not. I declare that I was not married to said William Bourke Kirwan, and that I knew of his marriage with the late Mrs. Kirwan for the last ten years. I also declare that the deceased, Mrs. Kirwan, from my own knowledge, was aware of his intimacy with me for the last ten years. I declare that when said William Bourke Kirwan was first put on his trial some time in November last, I attended pursuant to the summons served on me, and remained in court during the greater part of the day, when the trial was postponed. I declare that the first day when the trial came on in December last, I went to Green-street, but could not get into the court, and that I was most anxious to be examined; I was then suffering from a severe cut across my thumb, which bled until I fainted. I declare that during the trial of said William Bourke Kirwan, I was in the house of Mrs. Bridget Casey, of No. 19, North Anne-street, who generously gave me shelter, and that I was suffering from the effects of such cut, which threatened me with lock-jaw, and that this wound and my agitated state of mind produced a low fever, and that for two days I was in bed almost wholly unconscious and insensible, and at which time one of my children was also dangerously ill. I declare that since my name has been brought before the public in connection with Mr. Kirwan, I have been hunted and persecuted, and almost driven to madness, not knowing where to find a shelter either for myself or my seven helpless children. I declare that I have been obliged to leave my abode. I succeeded in obtaining lodgings in the house of a Mr. Mathews in North King-street, and that I went there with my furniture and children between the hours of seven and eight o'clock of the 31st December last, being New Year's Eve, and that the greater portion of my furniture having been brought up stairs, Mrs. Mathews came to

me and told me I could not remain; she gave me back the money I deposited; and sooner than be subject to exposure, I left the house; that some of my furniture was broken in the removal from the house, and I and my children were obliged to remain in the *street* until almost two o'clock in the morning, and that but for the shelter of a covered car, my children would have perished from cold. That having engaged lodgings in my present abode, a person of the name of Mortimer Redmond, of the detective force, called on me on Friday, the 14th January, inst., in company with another man and a Mrs. Bowyer. He said he had a warrant against me for felony of papers, and made search for them, and also for property alleged to have been stolen from Mrs. Bowyer in the year 1837. He asked me if I knew anything about the murder of Mr. Bowyer; to which I replied that I did not. He also went into the inner room, and in the presence of my son Edward, and my servant, Mary Anne Rochford, said, "Was I not a foolish woman not to have taken away some of the feather-beds from Kirwan's house?" to which I replied that I never took anything, either papers or property, from Mr. Kirwan's house; and I declare that I never did take any papers or property from Mr. Kirwan's house, save two newspapers. I declare that about seven o'clock on Sunday evening, the said Mortimer Redmond a second time called upon me, and against my wish intruded himself into my room. He said he came from Col. Browne, to inform me that Mr. Kirwan's property was to be sold on the following Friday, and to know if I had any legal claim, and was I not married to Mr. Kirwan. He said he had evidence in the Castle of the marriage, and that all he wanted was the name of a witness; and that if I would tell him and admit that I was married, I would be restored to my position in society, and be entitled to Mr. Kirwan's property. I replied that I was not married to Mr. Kirwan, and that I had told Major Brownrigg so. I then requested said Redmond to leave my room, which he refused. He sat down on the sofa, and said he would not stir until I told him when and how I was married; and when I insisted on his quitting and not terrifying my children, he then in a threatening tone and manner said, "Since you will not give the information I want, I now tell you that Col. Browne will put your children in the poorhouse;" to which I replied, "My children are not begging; do with me as you like, but you shall not touch my children, unless it be over my dead body." I then insisted on his quitting, and threatened to make him if he would not, when at last he did so. I solemnly declare that some time in the year 1847 my brother, who resides in America, wrote for me to go over to him; and that Mr. Kirwan urged me to go, and offered to give me any means I required, and that he would either provide for the children here (then four in number), or I might take them with me, and he would give me ample funds for their support and education, which I declined doing; and I solemnly declare that I stated in the office of Mr. Kemmis, the crown solicitor, that the responsibility of my intimacy

with Kirwan was mine, not his. And I make this solemn declaration at the request of Mr. John Knight Boswell, solicitor, conscientiously believing the same to be true, and by virtue of the provisions of an act made and passed, &c.

TERESA KENNY.

Declared at Capel-street Police-court, Dublin, this 26th day of January, 1853.

H. O'CALLAGHAN.

Upon this affidavit the deponent yesterday presented a petition to his Excellency Earl St. Germain, praying that he "may be pleased to direct a *public inquiry*" into the conduct of Mortimer Redmond, "before one of the divisional magistrates of police; or if before commissioners of the metropolitan police, that the public and press may be admitted, and that the witnesses (whose names witness will furnish) may be summoned on such inquiry."

Second Declaration of Teresa Kenny.

County of the City of Dublin, } I, Teresa Kenny, of Number
to wit. } Sixteen, Lower Dorset-street, in
the city of Dublin, spinster, do
solemnly and sincerely declare that it is not true that I and my children went to reside in the house of Mr. William Bourke Kirwan (the convict), in Merrion-street, shortly after the death of the late Mrs. Kirwan. I declare that some time after the death of Mrs. Kirwan, my son William being very ill, I brought him into town to Mr. Kirwan's house, to obtain medical advice, and that for three or four days I remained in the house from about eleven o'clock until four o'clock each day, attending on the child, and that I returned to my family in the evening. I declare that the only other of my children who came with me was my son Edward, and who was in the house when Kirwan was arrested. I solemnly declare that until after Mr. Kirwan was arrested I never slept a night in his house, but that after his arrest I came into town and slept in his house for two nights, for the purpose of securing his property. And I make this declaration at the request of John Knight Boswell, solicitor, to be submitted to his Excellency the Lord Lieutenant, and I make this solemn declaration, &c.

TERESA KENNY.

Made and subscribed before me this 28th day of January, 1853.

H. O'CALLAGHAN.

No. IV.

Considerations on the Medical Evidence of Death from Drowning, in relation to the case of William B. Kirwan. By Alfred S. Taylor, M.D., F.R.S.

[From the Dublin Quarterly Journal of Medical Science, February, 1853.]

[AFTER the trial and conviction of W. B. Kirwan, at the Commission Court in Dublin, in December last, for the alleged murder of his wife, an appeal was made to me, by several gentlemen of good professional standing in London and Dublin, to state my opinion regarding the validity of the medical evidence against the prisoner. The subjoined paper embodies that opinion. It was not written originally with a view to publication in a medical journal, but to aid in bringing about a revision and a reconsideration of the medical evidence upon which the conviction appears to have taken place. It has been suggested to me that the publication of this short paper, in the Dublin Quarterly Journal of Medical Science, would be attended with some advantage in reference to a very obscure and very difficult branch of medico-legal inquiry; and I have, therefore, assented to its appearance there. In considering the whole case, it seemed to me that, notwithstanding the moral and circumstantial evidence against the accused, the learned judges who presided at the trial considered the medical proof of *violent death* to be absolutely necessary to conviction. The jury, by their verdict, came to the conclusion that the cause of death was violent, and from the hands of another; but the appearances of the body, so far from supporting, rather tended to rebut, this view. Such, at least, if I am rightly informed, is the conclusion to be drawn from the medical facts. But for the moral circumstances adduced against the prisoner, it is not possible to suppose that, in the absence of any marks of murderous violence on the body, to bear out the theory of the prosecution,—of any marks of violent struggling or resistance,—and in the absence of any of the special signs of drowning or strangulation on the body of the deceased, this man should have been convicted of murder. A question then arises, whether any amount of moral evidence can compensate for a deficiency of proof of the cause of death? From a sentence extracted from the charge of the learned judge, and placed at the head of the subjoined paper, the answer to this question must, I apprehend, be in the negative. The proof of a violent death is an essential part of the proof of the alleged crime; and in Kirwan's case this proof, medically speaking, is deficient. Had the signs and appearances of the kind of death (drowning and suffocation by pressure) by which the deceased is alleged to have been destroyed, been properly placed before the jury, they must, in my opinion, have been led to entertain a rational doubt whether death in this case was so clearly traced to violence at the hands of another, as to justify a con-

viction for murder. Different degrees of evidence satisfy different minds; but a medical witness is bound to base his opinion on medical circumstances, and when these are not forthcoming, he cannot be allowed to supply their place by moral circumstances. It may be that some criminals will escape by a strict adherence to this rule, but this is of small importance to society compared with the punishment of one who is really innocent. Looking at the unsatisfactory nature of the medical evidence of violent death in the case of Kirwan, it would certainly have justified a verdict of Not proven.]

In the charge of the jury by the learned judge who tried this case, I find, according to the published report, the following remark:—

“But if you are unable to satisfy yourselves as to whether this was a VIOLENT DEATH or a NATURAL DEATH, you ought to give the prisoner the benefit of your doubt,—your rational, well-founded doubt,—and to acquit him.

The jury appears to have been satisfied, from the *medical evidence*, that this was *not* a natural but a *violent* death, and to have returned a verdict accordingly.

With deference to the medical witnesses who gave evidence on this occasion, respecting the cause of death in the case of Mrs. Kirwan, I beg to submit that the appearances in the body did not justify the inferences drawn,—that these appearances fail to prove that the deceased died a violent death; and that they are quite reconcilable with the view that the deceased died while in the water, from a sudden attack of apoplexy or epilepsy.

The evidence of Mr. Hamilton, who saw the body on the day following its removal from the water, included the following points:—

1. There were abrasions of small extent about the right temple and eyelids.
2. A white froth, untinged by blood, issued from the mouth.
3. The countenance was rather pale.
4. There was a stream of blood on the cap, which appeared to have come from the ear.
5. There were no wounds or marks of violence about the body.*

On the 6th of October, *thirty-one days* after death, the body was inspected by Dr. Hatchell. From this examination it appears:—

1. That there were abrasions in the situations indicated by Mr. Hamilton.
2. That there were no marks of violence, of stabs, cuts, or fractures, or of any injury likely to cause death.
3. That the right eye protruded; the upper lip was swollen; the inside of the lip vascular; the tongue protruded and marked by the teeth; the genital organs vascular, and containing more blood than was natural.

4. The brain was of a light pinkish colour, and very fluid, owing to decomposition. The lungs were healthy, but *congested* poste-

* “A few scratches as if from rocks.”—See *Information taken on the 7th September, 1852.*

riorly, inferiorly, &c.; this congestion assigned to engorgement of blood during life.* The heart was healthy, and was *empty* both at the right and the left side, as were also the *large vessels* connected with it.

5. There was nothing to indicate that any weapon had been used.

6. It is to be inferred also, from the foregoing statement of the condition of the body, that there were no marks of a ligature or of violent compression about the mouth, neck, or chest.

7. The stomach was found *empty* and contracted, and there was no *froth or frothy mucus* in the trachea, bronchi, or air passages.

8. The abdomen was much distended with gas, and the diaphragm *much pushed up*.

Taking these statements to represent the condition of the body of the deceased, I would beg to observe, that there is nothing here of a medical nature to *prove* that the deceased died by drowning, or by any form of *asphyxia*, such as *suffocation or strangling*.

The most important and well-marked appearances of DROWNING are:—

1. The presence of a frothy mucus and fluid, (*tinged with blood*, in cases of great congestion during life) throughout the air-tubes of the lungs.

2. The presence of water (salt water, if in the sea) in the stomach.

3. Congestion of the lungs, with a full and distended condition of the RIGHT SIDE of the HEART, and of the great blood vessels connected with it.

The appearances observed by Dr. Hatchell in the body, after it had been buried in a *wet* grave, *thirty-one days after death*, appear to me to reveal no more than the general effects of decomposition, which must, upon his own admission, have advanced to a considerable extent, to have rendered the *brain fluid*, and to have caused a *pushing up* of the diaphragm by the gas in the intestines. Engorgement or infiltration of blood in the small vessels of the posterior and inferior parts of the lungs, as well as of the lips and genital organs, may naturally be expected where decomposition has gone on to this extent; and in my opinion no inference presumptive of death by drowning, or by any form of suffocation, can be safely drawn from the appearances which he saw and has described. Such changes, excepting the abrasions externally, might be found in any dead body buried for a month in a wet grave, and quite irrespective of violent death. In so far as the appearances can be relied on, they actually prove that the only certain signs of death from drowning were wanting:—

1. There was *no froth or frothy mucus* in the trachea.

2. There was *no water* in the stomach.

3. There was *no blood* in the *right cavities* of the heart, or in the great vessels connected with it.

The froth observed by Mr. Hamilton as issuing from the mouth

* "The lungs collapsed, and the minute vessels gorged with blood."—*Printed Information*, 15th October, 1852.

recently after death may have been produced as well by a fit, causing death while a person is in the water, as by actual drowning. This froth was *not tinged with blood*, a fact quite adverse to the theory that there was such congestion in the respiratory organs from great pressure exerted during life, as to cause oozing of blood from the ears.

It is true that a person may be drowned without necessarily swallowing water, or struggling so as to produce a frothy mucus in the air passages of the lungs: but then the *medical proofs* of drowning are entirely wanting, and the person may have died from some other cause, and not from drowning. When these well-marked appearances are absent, there is an entire failure of *medical evidence* respecting this species of death. I believe that the only appearance on which Dr. Hatchell relies—engorgement of the vessels at the posterior and inferior parts of the lungs—may have been due to post mortem changes: it is not of the least value as medical evidence of drowning, unless observed soon after death; and unless attended with other appearances which, upon the assumption of death by drowning, or by some other form of asphyxia, ought always to accompany it.

One of the most striking characters of *asphyxia*, including death from drowning, hanging, strangulation, and suffocation, is a *distention* of the *right cavities* of the heart, and of the large blood-vessels connected with these cavities, *with black fluid blood*. This condition is a necessary result of the engorgement of the vessels of the lungs, when this engorgement is really due to asphyxia; and if, *even in a recent inspection*, we find a distention of the lungs *without a corresponding distention of the right cavities of the heart*, we cannot (unless other circumstances supply affirmative evidence) be assured that the person has really died of asphyxia.

In the examination of the drowned, and of persons who have been strangled, as well as in experiments on animals drowned, strangled, and suffocated, this condition of the heart has been, according to my observation, an invariable accompaniment of engorgement or congestion of the vessels of the lungs. Cases have been met with where the lungs have not been found gorged, and the cavities of the heart empty; but I cannot call to mind a case where the *lungs have been found engorged as a result of asphyxia, and the cavities of the heart empty!* The absence of the distention from one or both organs would in general render it impossible to give, upon medical grounds, an affirmative opinion that death had taken place from asphyxia.

At page 622 of the last edition of my work on Medical Jurisprudence (fourth ed., 1852), I have recorded a case of murder, by the forcible immersion of a female in a pond. The mode of death corresponds somewhat to the theory adopted by the prosecution in the case of Kirwan, i. e. the deceased died from the effects of drowning, and by an amount of pressure or violence which mere drowning would not explain. The case occurred to my friend Mr.

Image, a surgeon at Bury St. Edmunds, Suffolk. Contrast the medical evidence respecting the cause of death in this and Kirwan's case. Froth and mud were found in the mouth and fauces, also in the air tubes, as well as pieces of green weed from the pond. The stomach contained a pint of liquid, mixed with *mud* and *sand*. The lungs were engorged and greatly distended, *containing much fluid and frothy mucus*. The state of the heart is not described in my published account; but knowing the importance of the observation, I wrote to Mr. Image, to inform me of its condition. In a letter, dated Bury St. Edmunds, May 17th, 1852, now lying before me, he says, "*Both right and left cavities of the heart were filled with black fluid blood.*"

My friend, Dr. F. Ogston, of Aberdeen, has had great experience in the inspections of the bodies of the drowned. When I held the editorship of the Medical Gazette, he sent me a series of papers on this subject, not for the purpose of supporting any particular theory in any particular case, but as a *dry record of medical facts*. In reference to the appearances now under discussion, a paper by him will be found in the number of that journal for August 15, 1851,* in which he gives an account of the condition of the heart in fifty-three inspections which he made of *drowned subjects*. The right cavities were found empty only in *two* instances, and in one of them the person had been fifty-six days dead, and in the other dead for an uncertain time. If any reliance is to be placed upon the examination of the body in the case of Mrs. Kirwan, the appearance presented by the heart destroys the inference drawn from the engorgement of the lungs, and proves, or renders it in the highest degree probable, that this lady did not die from drowning or suffocation.

But it may be said, frothy mucus may have existed in the air-passages at the time of death—so also the heart may have been distended with blood, and the stomach may have contained water—that in fact decomposition may have led to the obliteration of these conditions. If this view is to be adopted, then the inference of death from asphyxia (drowning or suffocation) must be based not on medical facts, not on appearances actually presented by the body, but on a series of assumptions. Such a course would be most dangerous, and when *no mark of violence on the body existed to indicate death from asphyxia*, it would be equal to declaring a man guilty of murder not upon scientific proofs, or upon data confirmed by experience, but upon mere conjecture.

The theory of death assumed by the prosecution is not only not proved, but actually disproved by the appearances found on the body. Had the dead body of Mrs. Kirwan been found inland, at some distance from the water, her clothes removed, and no appearances of wetting about the body or hair, it appears to be impossible that any medical men in examining the body, and finding only the appearances described by Dr. Hatchell, could have arrived at the conclu-

* Medical Gazette, vol. xlviii., p. 290.

sion that death had taken place from forcible drowning, or from asphyxia by compression, as a result of manual violence.

The slight abrasions found on the face, temple, and chest, with the slight cut on the right breast, might have resulted from the deceased falling on her face, and from her struggles in dying. The bleeding from these parts, including bleeding from the ears, may have arisen from the fact that the body was warm, and the blood was prevented from coagulating by reason of its continual removal by the water. Abrasions about the ears may thus give rise to bleeding in drowned subjects. The bleeding from the ears does not appear to have been very considerable; Mr. Hamilton states that when he saw the body the day after removal from the water, the whole accumulation amounted to a stain of the size of a five-shilling piece upon the cap. The blood appeared to have come from the ear.

I do not assent to the inference drawn by the prosecution, that the *bleeding from the ears* was a proof of congestion arising from forcible compression. Any congestion arising from compression or constriction of the neck, which would have caused effusion of blood from the ears, would have also led to effusion of blood or bloody froth from *the mouth and nostrils*, to a *bloated and livid condition of the face*, and to *permanent marks of such compression on the head, neck, or chest*. The absence of all these conditions, in my judgment, vitiates the inference that no other cause could have produced this bleeding from the ears than congestion from forcible compression. I have had occasion to see this bleeding from the ears in cases of murder by strangulation, but it was accompanied by those well-marked indications of violence to the neck and chest, which, in my opinion, are necessary to produce it. Further, it was accompanied by an escape of blood or bloody froth from the mouth and nostrils, and a livid and bloated state of the features. In Mrs. Kirwan's case, if the face when seen by Mr. Hamilton was rather pale, if no blood escaped from mouth or nostrils, and there were no marks of violent compression on the neck or chest, the inference drawn respecting the bleeding from the ears is, in my opinion, erroneous. As the witness who drew this inference did not see the body until thirty-one days after death, he was not in a position to speak positively on the cause of this bleeding from the ears.

The bleeding said to have taken place from the *vagina* did not arise from any wound in that part. I have not known it to occur in drowning. It was not observed in the murder of two females by strangulation in a very violent form, which I have had occasion to examine within the last two years.* There was most violent constriction and congestion produced in both of these cases, but no effusion of blood from the vagina.

Was this bleeding the result of passive menorrhagia, or the recurrence of menstruation, as a result of shock soon after that func-

* Reg. v. Drory, Essex Lent Assizes, 1851; Reg. v. Pinckard, Northampton Lent Assizes, 1852.

tion had ceased? In relation to the cause of death, as it did *not proceed from any wound*, it proves nothing. It is as difficult to reconcile this effusion of blood with the theory of death from violence, in a case like this, where no indication of violence from constriction or compression is apparent on the body, as with death from an attack of epilepsy or apoplexy. To assume that it is a *proof* of death from some form of asphyxia, as a result of forcible compression, would be most unjust. It is a rare condition in asphyxia, and not a constant accompaniment or sign of the suffocation or strangulation of females.

The fact that the genital organs were found vascular and injected amounts to nothing; because the observation was not made until thirty-one days after death, and decomposition in the abdomen had advanced so far as to cause great distention of that cavity, and a pushing up of the diaphragm. Gravitation, as well as the mechanical effect of this compression on the blood contained in the abdominal and pelvic viscera, might account for this increased vascularity. As it was not observed when the body was recent, it is a sign of no value as an indication of the cause of death.

The theory suggested by the prosecution, that deceased was suffocated by a sheet being placed over her head, derives no support from the appearances of the body. Such a mode of suffocation would not prevent violent struggling, the swallowing of water, the marks of great resistance, of great injury to the back and arms—where rocks and shingle were beneath, the evidence of great pressure on the neck or chest, which could not fail to strike the first observers of the recent body. The prisoner could not have thus destroyed life without wetting his coat as well as his trowsers; or without, probably, showing the marks of considerable wetting, of struggling or resistance, on his person or dress. This theory is not supported by the examination of the body. The *heart* is found *empty*, whereas in suffocation the right cavities should be *distended*. If it be suggested that the cavities of the heart may have been filled, but emptied as a result of gaseous putrefaction, then it would be only fair to say that the inspection, made thirty-one days after death, threw no light on the cause. In a question of life and death, it would be most unjust to assume that conditions had existed of which there was no proof, or to assert that the fulness of the lungs allowed of a strong inference against the prisoner, while the emptiness of the heart was not a circumstance in his favour.

I assert, as my opinion, from a full and unbiassed examination of the medical evidence in this case, that so far as the appearances of the body are concerned, there is an ENTIRE ABSENCE OF PROOF that death was the result of violence at the hands of another. Persons while bathing, or exposed to the chance of drowning, are often seized with fits which may prove suddenly fatal, although they may allow of a short struggle; the fit may arise from syncope, apoplexy or epilepsy. Either of the last conditions would, in my opinion, reconcile all the medical circumstances of this remarkable case.

It is the result of twenty years' experience in the investigation of these cases, that the resistance which a healthy and vigorous person* can offer to the assault of a murderer intent upon drowning or suffocating him or her, is in general such as to lead to the infliction of a greater amount of violence than is necessary to insure the death of the victim. The absence of any marks of violence or wounds on the body of Mrs. Kirwan, except such small abrasions as might have resulted from accident, may be taken in support of the only view which it appears to me can be drawn,—namely, *that death was not the result of a homicidal drowning or suffocation*, but most probably of a fit resulting from natural causes.

A remarkable case of sudden death from epilepsy, under circumstances which might have led to great suspicion, is recorded by Dr. Ogston in his papers on drowning:—

“A man was in the act of leaving a privy when he was seized with an epileptic fit, and fell with his face in a piece of dirty water which did not exceed a *foot and a half in breadth*, with a depth of from *three to four inches*. When discovered after death, only his mouth and nostrils and one cheek were found to have been under water.”†

This case might be easily worked into a case of alleged murder. How could a person have been drowned or have died under such circumstances? Let this be duly considered in drawing inferences from the position of dead bodies found in shallow water.

There can be no doubt that had the inspection of the body of Mrs. Kirwan been most carefully made within forty-eight hours after death, we should not now have to speculate on the cause,—we might have had better data for an opinion. In the meantime, because it was not thus and then inspected, conditions of the body, adverse to the presumption of natural death, must not be assumed to have existed in order to work out a charge of murder against a man accused of the crime.

I have always regarded it as a necessary condition to support a charge of murder, that the evidence of the *cause of death from violence* should be distinct, conclusive, and satisfactory. In this case, the medical proofs utterly fail to make out a *violent cause of death*. Reliance is placed on engorgement of the vessels of the lungs and congestion of the vagina, *found only after thirty-one days' interment*, in a decomposed body; while the emptiness of the heart and the great blood-vessels,—the absence of salt water from the stomach, mouth, fauces, and lungs,—and the absence of frothy mucus from the air-passages, are conditions adverse to the cause of death assigned by the medical witness for the crown. The absence of these appearances creates a very strong presumption of natural death; or even in taking an adverse view against the prisoner from other and non-medical circumstances, their absence throws so much doubt on the allegation necessary to prove his guilt, namely, that the death was

* Dr. Hatchell describes the body as “that of a fine, healthy woman.”

† Medical Gazette, May 2, 1851, vol. xlvii. p. 763.

violent, that he should undoubtedly, with a proper representation of medical facts and inferences by the medical witnesses, have received the benefit of it.

If a man is charged with murder by poison, death from poison must be *proved*,—the appearance in the dead body must not leave it doubtful whether death was caused by disease or poison. If the usual signs of poisoning (inflammation) are absent, a medical witness, unless there be other strong and direct evidence of poisoning, would not be allowed to infer that inflammation might have been present at an early inspection of the body, but had disappeared when he examined it, because in his opinion the condition had been destroyed by changes in the grave. This is conjectural evidence. It is mere matter of opinion, and must not be allowed to weigh against a prisoner when the cause of death is actually involved in doubt. Dr. Hatchell, in the case of Mrs. Kirwan, was placed in a difficult position. He had not given an opinion on the cause of death from an inspection made thirty-one days after death, the body having been placed in a wet grave, and decomposition having advanced to a considerable extent. He probably gave the best opinion that he could from the only appearances which he found, but in doing this he overlooked, as it seems to me, the importance of other appearances adverse to his view of the cause of death; and, in my judgment, he would have acted more wisely, and more in accordance with the rules of science, had he referred the infiltration of the lungs and the vagina to post-mortem changes. The result of the inspection at that distance of time either proved nothing with regard to the cause of death, or, from the state of the heart or stomach, it proved that death could not have taken place in the manner in which the witness supposed and asserted that it did take place.

No. V.

Certificate of sundry Physicians and Surgeons, on reading the statements in Appendix VII.

Having well considered the foregoing statements, more especially those that describe the appearances presented by the body at the post mortem examination, made after it had been exhumed; when the body, having died a sudden death, had remained during thirty days in a grave that had from two three feet of water in it, we are of opinion that, *for the most part, the appearances explain nothing but decomposition.*

We are further of opinion that the *appearances unaccounted for by the process of decomposition are quite compatible with death caused by simple drowning, or by the seizure of a fit in the water; and we deem it highly probable the latter was the unhappy cause of death in this instance;* for it appears from the sworn testimony annexed of Arthur Kelly and Anne Maher, that Mrs. Kirwan was subject to fits; and we are given to understand that her mother, now alive, derives her

pension on the medical certificate that her husband, the late Lieutenant Crowe, Mrs. Kirwan's father, died of a fit eight years ago, in Irishtown, County of Dublin.

WILLIAM JACKSON PORTER, M.D., Professor of Surgery, Royal College of Surgeons.

ROBERT J. GRAVES, M.D., F.R.S.

THOMAS EDWARD BEATTY, M.D., Professor of Midwifery, formerly Professor of Medical Jurisprudence, Royal College of Surgeons.

J. MOORE NELIGAN, M.D., Physician to Jervis-street Hospital.

H. MARSH, Physician in Ordinary to the Queen in Ireland, &c.

CHARLES JOHNSON, M.D., Ex-Master Lying-in Hospital.

JOSIAH SMYLY, Examiner in Surgery, F.R.C.S.I.

THOMAS P. MASON, M.B., F.R.C.S.I.

THOMAS RUMLEY, Examiner on Medicine and Surgery, College of Surgeons, Dublin.

FRANCIS RYND, A.M., F.R.C.S.I.

Certificate of Surgeon Cusack.

I have read the evidence given as to the appearance of the body of Mrs. Kirwan, after exhumation. I am of opinion that decomposition had so extensively taken place, that it was *not possible to arrive at the conclusion that her death had been occasioned by immersion in the water, or suffocation.*

W. CUSACK, M.D.

F.R.C.S.I., and University Professor,
3, Kildare-street.

December 20th, 1852.

No. VI.

Dr. Neligan's Letter to Rev. J. A. Malet, respecting the value of Dr. Taylor's Medical Testimony.

Merrion-square, Dublin,
December 21st, 1852.

Dear Sir,

I have just received the enclosed note relative to Mr. Kirwan's case, from my friend Dr. A. S. Taylor of London. Should you think well of so doing, you are at liberty to make any use you wish of it.

Doctor Taylor is the highest authority in England on all questions relating to legal medicine, and is invariably referred to and employed by the Crown on such; for example, in the celebrated case of Tawell, and in the more recent one of Jael Denny.

He is also author of the standard works of the age on Medical Jurisprudence and on Poisons.

Truly yours,
J. MOORE NELIGAN.

The Rev. J. A. Malet.

Dr. Taylor's Reply to Dr. Neligan's application for his opinion of the Medical Evidence respecting the cause of Mrs. Kirwan's Death.

15, St. James's Terrace, Regent's Park,
December 20th, 1852.

My dear Sir,

Before the trial of Kirwan took place, some of the particulars were communicated to me by Dr. Geoghegan. It struck me at the time that although the conditions of the body were certainly not incompatible with death from drowning, there was *an entire absence of such appearances as would justify a medical opinion that the deceased had died in this manner.*

Several friends have referred to me on the point. Mr. Rodwell, the barrister, considers there was not sufficient evidence to convict. On Saturday, my friend B. Cooper, the surgeon of Guy's, came to me and *most strongly stated his opinion from the medical evidence, that the prisoner has been wrongly convicted.*

After the appeal which you have made to me, I will give an immediate and close attention to the medical evidence and the medical circumstances of the case. My present conviction is, that *all the medical circumstances are explicable without reference to any act of violence on the part of the prisoner, and that therefore to execute him for the alleged offence would be a most dangerous proceeding on the part of our law authorities.*

I am, dear sir,
Your's very truly,
ALFRED S. TAYLOR.

Dr. J. M. Neligan.

No. VII.

Copy.—Information of James A. Hamilton of Howth, Medical Student, sworn before Henry Davis, Esq., 7th of September, 1852.

Saith, that I am a Medical Student; I have examined the body of the deceased lady; there are no marks of violence, a few scratches, as if from rocks; the body presents the appearance of a person being drowned.

Copy.—Information of George W. Hatchell, Esq., M.D. of the Constabulary Depot in the Phoenix Park. Sworn 15th October, 1852.

Saith on the 6th day of October, instant, I proceeded to Glasnevin Cemetery, for the purpose of making a post mortem examination on the body of the late Mrs. Kirwan. The grave in which the

body lay had from two to three feet of water in it; and when taken up, a quantity of water flowed from the coffins, of which there were two; the surface of the body was in such a state of maceration as to render it impossible to trace with certainty any marks of violence.

I opened the head, but found no fracture. The brain was in a fluid state. The upper lip appeared swollen; found the lungs collapsed, and the minute vessels gorged with blood. The heart appeared healthy; the stomach was contracted and empty. The body appeared to be that of a fine healthy woman. The lungs and heart exhibited those appearances which are compatible with death produced by drowning or strangulation.

Extract from Dr. Hatchell's Evidence at the Trial.

Deponent having been asked by Mr. Curran if he found any marks of violence in the ears, private parts, or neck of deceased, replied, he had not. *Mr. Curran having again asked, could there be any marks of violence without your observing them?* he replied, *Certainly not.*

No. VIII.

Corroboration of Mr. Alexander Boyd's Statement, by six other members of the Coroner's Jury.

Howth, 13th December, 1852.

I was one of the Coroner's jury, and the facts, so far as they occurred before that jury, I am fully prepared to corroborate.

HENRY GALLAGHER.

I was one of the Coroner's jury above mentioned, and the facts related, so far as they refer to what occurred before that jury, I am fully prepared to corroborate.

GEORGE RESTON.

I will be prepared at any time to corroborate the above statement on oath.

ROBERT BOYD,

One of the Jury.

I perfectly recollect all that occurred before the Coroner's jury, and I will state on oath, if required, that the above statement of those occurrences is correct.

WALTER BOYD, Jun.,

One of the Jury.

I was on the Coroner's jury, and will corroborate on oath, if required, the facts above stated, so far as they relate to what was said on the inquiry.

THOMAS FLEWITT.