

Madeleine [Smith] tried at the bar of common sense and common humanity : being a plea for the coroner's inquest in Scotland / by Historicus [i.e. David Dunbar Scott?].

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MADELEINE

No 1

15

16

TRIED AT THE BAR OF

COMMON SENSE AND COMMON HUMANITY.

BEING A PLEA FOR THE

CORONER'S INQUEST IN SCOTLAND.

BY HISTORICUS.

"Omne ignotum pro mirifico."

GLASGOW:
THOMAS MURRAY AND SON.

MDCCCLVIII.

NOTE.

THE Author has gone little beyond the evidence before the Jury in the Court of Justiciary, and then only for the purpose of illustration rather than proof. He has to acknowledge his obligations to the Editor of the *Edinburgh Advertiser* for his excellent leading articles on the case, and to the pamphlet, "Who killed L'Angelier?" His Introduction was written before he read the latter.

While some friends consider that the Author is bound, by common humanity, to publish his views, others tell him that he is thereby jeoparding his own character and sinning against society. But even if we admit that the accused has, irrespective of the charge of murder, wronged others—for they cannot mean to vindicate God's law—what do they say to the Saviour's rebuke to such unmercifulness in that most affecting parable of the two debtors? Matt. xviii. 23.

The subject of the Coroner's Inquest has been ably handled by a very intelligent medical gentleman, James Craig, Esq., of Ludgate Lodge, Ratho, in "The Law of the Coroner, and on Medical Evidence in the Preliminary Investigation of Criminal Cases in Scotland," published in 1845. Mr Craig treats the subject from quite the opposite point of view—that of the crown officers doing, not too much, but *too little*. But both views are important, for over-zeal and delusion in some cases are nowise exclusive of a most unjustifiable indifference and neglect in others. Mr Craig has adduced striking evidence of such culpable negligence, and his able address ought not to be allowed to drop into oblivion.

ROYAL COLLEGE
OF
PHYSICIANS
OF
LONDON

INTRODUCTION.

I HAVE before me a verbatim report of a remarkable trial. Special interest in it I have none. The accused and her friends are absolutely unknown to me. In this respect no man ever read a report with more unbiassed feelings. I read the whole and am confounded.

Here is a young woman escaping by a hairbreadth from a shameful death, and from passing out of this world as a cold-blooded perfidious murderess; a whole family—father, mother, brothers, sisters—residing in a vast city, and moving in a sphere that brings many eyes on them, utterly disgraced; worse than all, the young woman subjected, by the first law officer of our virtuous Queen, to demoralising and hardening influences enough to corrupt a saint. Yet the eye of common sense and common humanity cannot fall on a single department of the vast mass of pretended evidence adduced to prove her guilt, but it sees palpable proofs of her innocence. And these frightful wrongs are inflicted, not in some far-distant country, by heathen fanatics, but by the country that gave her birth, and that considers itself as pre-eminently Christian—by the nation whose blood flows in her veins, to which she may be supposed to cling with the intense nationality of the Scotch, and which surely owed her some protection from the risk of such a fate.

I suspect my first impressions. I read and re-read the address of the prosecutor to the jury; but again its transparent sophistry, and its palpable absurdities, by turns amuse and shock me. I turn to the evidence, and perceive, that before the depositions touch her at all, common sense and common humanity would have stopped the trial, by pronouncing that there was no *corpus delicti*. Doubting again my own judgment, I go through the whole evidence once more; but the more I sift, and compare, and weigh, the more anxiously I subject all prepossession to the rigorous rules of evidence, the more do I perceive of proof, not of guilt, but of innocence. The hypothesis of guilt, I find, not only does not remove difficulties in accounting for the death of the man presumed to have been murdered, but multiplies them beyond measure. The hypothesis of a diffused poison of long standing, suggested by the physician before he left the room where his patient had just expired, and followed out according to the rules of the most careful induction, at once clears the accused and explains every difficulty. The murder charged in the indictment is seen at once to be a physical impossibility.

And yet she escaped by a hairbreadth from a public execution in presence of the assembled blackguardism of the West of Scotland, and from figuring in the annals of Scottish crime as the most barbarously inhuman of her sex. Had the deceased been seen, and he might have been seen, on the night preceding his death, at or near her father's house and in her

company, she would have been convicted and executed, although the supply of that wanting link in the imaginary chain of evidence contrived to secure her death, would not in any sensible degree have weakened the overwhelming proofs of her innocence.

My next thought is to discover, if possible, how all this can have happened with prosecutors, counsel, judges, and jury, all well-meaning and conscientious men. And here I am struck with several startling facts and considerations.

When a person dies in a manner not at once accounted for, the first object of justice should be to defend the innocent from the surmises of the credulous, the imaginative, the spiteful, the jealous, and the revengeful. Such a death instantly puts weapons into the hands of all such dangerous persons, and a terrible use they may make of them.

In this respect the coroner's inquest in England is an admirable institution. It starts from the right point—an inquiry into the cause of death, not into the guilt of any suspected person. It is conducted with sufficient publicity to prevent partiality, and to invite evidence from all parties capable of giving it. It is not conducted by men whose professional zeal is likely to bias them, or whose professional gains may be increased by a trial. No public prosecutor has anything to do with the momentous proceedings of an inquest, on whose result it depends whether a possibly innocent person is to be dragged from private life and introduced to the world as a murderer. Surely if there is any risk from which society is bound to shield its members it is this. For it is evident that it is neither more nor less than a frightful aggravation of that from which the coroner's inquest shields the public in England. The prosecutor is a most dangerous person to trust with the charge of the first public proceedings. He is far too apt to become the dupe of foolish surmises, and to be pushed into a course in which he, the guardian of all, becomes a most formidable enemy to one; a foe not only subject to the common weakness of humanity, but apt to be influenced by professional zeal; and a foe equipped with legal learning, able and experienced assistants, a whole army of police, and having the national purse out of which to defray all sorts of expenses. Thus, on the slightest suspicion, a state hunt may commence in which the more numerous and formidable the obstacles, the more intense become the eagerness and the energy of the whole establishment. By pre-occupying the ground within which the only relevant evidence for an acquittal may be found, the prosecutor may multiply ten-fold the difficulties of proving a negative, and by leading, instead of beating back, the pack of yelping curs that are ever ready to run down such as are once suspected, he becomes the direst of public plagues.

In the trial before us we find a young woman suddenly charged with an offence which is no sooner associated with her name than she is regarded with universal horror. The very circumstance that the crime with which she is charged is wholly unprecedented, and to the last degree horrible and revolting, though to sober reason it makes the chances a million to one that she is innocent, by the strong hold it takes of the imagination, prodigiously facilitates an unreasoning belief of her guilt. David Hume went much too far when he made belief to consist in mere strength of impression; but no one that has read or observed to good purpose can fail to see how much more readily the mind believes what strongly impresses it than what little

affects the feelings. Let a horrible suspicion once become associated with a sudden and uncommon death, and there instantly arises a disposition on all hands to deduce prodigious consequences from simple causes, to overlook palpable absurdities, to see portentous indications of the unnatural and the horrible in coincidences which otherwise would hardly be noticed, and to distort evidence by exaggerating the importance of some facts, and depreciating that of others—nay, to reverse the very first principles of presumptive evidence, by testing facts by surmises, instead of surmises by facts.

At what a frightful disadvantage does this place the accused, whose age, sex, and previous habits, may unfit her for self-defence, and who may be unable to find either agent or counsel capable of escaping the prepossessions which public rumour, aided by the first oblique proceedings of the crown officers, may have created against her! Thus she and her family may be called upon to meet at once an emergency, compared to which an invasion of the plague, or the burning of the house at midnight, were a trifle. To prove the charge to the satisfaction of a public or a jury thus excited and unhinged, becomes almost a work of supererogation, for the belief may already have become universal. To be sure there must be a formal proof; but when so much has already been gained, it is easy to get up a plausible case for the prosecution, by means of highly-coloured misrepresentations of facts and gross misinterpretations of spoken and written words. But to prove the negative—how shall that be done? It may be true, yet the proof may be impossible. A casual coincidence may mislead a blundering jury into the notion that some hapless individual must either explain a mysterious death, or be justly pronounced guilty of murder. What a frightful position for a man—still worse for a woman! Utterly ignorant for a time of what circumstances, however trifling; what witnesses, however weak, malignant, or revengeful; what surmises, begot by the mere excitement of the public, may be accumulating around her; and what perverse ingenuity may be at work in turning all against her—she must be placed at a prodigious disadvantage from the very first.

In all this there is something very shocking, but all this precedes the actual trial. And whether the trial be hastened or deferred, the accused, without a coroner's inquest, continues at a great disadvantage. If hastened, the time may be quite insufficient for collecting witnesses, particularly if the most important must be sought among the friends of the deceased. If delayed, important evidence may be lost or rendered useless by witnesses forgetting dates and persons. But what do we find at the trial itself—the first public scene in the case? An elaborate inquiry into the cause of the death, not as simply caused by arsenic, but by arsenic found diffused throughout the body to an extent and in a quantity irreconcilable with the surmise either of murder or of suicide—an anxious investigation into the preceding circumstances, and particularly into the time when the fatal symptoms first commenced, and whether or not any antidote had been taken by the deceased, and had caused an intermission of symptoms and partial relief—a special inquiry into the peculiar predisposition to diarrhoea and cholera which had long affected the deceased, and whether his was not the case of one who, under the action of some diffused poison slowly absorbed, is able to go about his business like other people, but is no sooner exposed to cold, damp, and exhaustion, than he risks being attacked with deadly

symptoms? Do we find all positive assertion kept in abeyance, and nothing assumed as true till proved—all difficulties fairly met, not slurred over where they oppose one surmise and pronounced insuperable when opposed to another? No, we find the reverse of all this. The principles of inductive science seem to have been put out of court, or confined at least to the cooler heads of the public, who came only to see and hear, and to have their triumph in shouts of satisfaction at a verdict which, unsatisfactory as it was, at least rescued the accused from the gallows. Assuredly it was not the fault of those principles that a nine days' investigation ended without a definite conclusion. Had they been rigorously applied, one day would have sufficed.

Preliminary to this first public investigation, we find, not a statement of the facts to be investigated, but, by a tremendous leap, a young woman placed at the bar with every eye directed at her as a perfidious and brutal murderer. The proceedings in which she is, for the first time, confronted with the country that owns her, and is bound to protect her, open with her indictment—that is, with a solemn declaration on the faith of the first law officer of the crown, of her being guilty of three several acts of poisoning, in the last of which she had met with complete success. This is followed up immediately by an elaborately-arranged train of evidence, in which the one point steadily and unflinchingly pursued is not the explanation of a sudden but nowise mysterious death—a death of which many of the friends of the deceased might have prophesied years before that he would sooner or later die—but the conviction of an alleged murderess. No murder, contrived and perpetrated by a hoary adept in villany, could have presented a more systematic plan for accomplishing a death than these proceedings exhibit for the hanging of the accused.

To talk of fairness and public duty in connection with such proceedings is preposterous. The prosecutor, of course, will not withhold from himself the credit of having derived his conviction, strong and clear, of the guilt of the accused, from a cool, calm, impartial, straightforward expiscation of facts. Be it so—but how happens it that the whole train of proof is oblique—that every innocent surmise, notwithstanding its infinitely greater general probability, is dismissed as a worthless guiding thread—that evidence, however respectable, and given with whatever verisimilitude, is ruthlessly attacked as the result of subornation and perjury—that unproved assertions of guilt are hazarded with unblushing effrontery—that all acknowledged rules of induction are violated and trampled on? Why, finally, if the jury was to form a cool, calm, unprejudiced judgment, were the most hackneyed tricks of the sophist unsparingly employed to prepossess the feelings and pervert the judgment? The surmise that the man had for years been his own unwitting poisoner, accords with every fact and meets every difficulty—but not the slightest regard is paid to it. That of murder by any one, and especially by the accused, is irreconcilable with almost every fact adduced, and makes a call on our credulity that, except under the influence of a delusion, would excite both laughter and disgust—yet it is eagerly adopted.

The minds of all present having been thus fevered with the idea of a horrible crime, and awe-struck by the actual presence of the murderess, as well as pre-occupied with evidence oblique in its whole direction and elaborately arranged so as to mask its weak points and general inadequacy

as presumptive proof of such a prodigy, next comes the evidence for the defence, always listened to with suspicion and incredulity, and often impossible to be had. The prosecutor's address follows, presenting a burlesque on justice alike unprecedented and revolting. Not content with the enormous preponderance of advantage he already possesses, he grasps immediately at more. Having befooled himself by allowing his susceptibility of the horrible to unsettle his own judgment, he does his utmost to make others equally befooled themselves, by forgetting that they are no longer children met round a nursery fire to listen to stories from Mother Bunch, but grown men solemnly convened in a court of justice in a case of life and death. That prepossession on the part of the public, the malignity of which was shown by all the lying rumours afloat being to the prejudice of the accused, he adopts himself, clothes in solemn and exciting language, and endeavours to make the jury adopt as a matter of duty to God and man.

And this character of eager and interested accuser he maintains throughout—so thoroughly self-satisfied in his own conviction that neither its own enormous improbability, nor the flagrant violations of the rules of evidence it compels him to make, and the minor incredibilities it compels him to swallow, disconcert him in the least. How this dark stain on the criminal jurisdiction of Scotland may be wiped off, this frightful wrong to a young woman and a whole family remedied, but by placing the prosecutor himself at the bar, it is not easy to say. Who, it may be pleaded, but the coryphæus of the public in this work of slander, should suffer as the scape-goat of the public in the retribution it so richly deserves? Meanwhile, he was but one of many offenders. His chief offence has been his allowing himself to be the dupe of a mischievous and malignant credulity, in circumstances that called for the special exercise of a cool, steady, imperturbable judgment.

If any reader shall allege that I am here guilty of the very injustice with which I am charging one of my country's institutions and those who conduct them, let him mark at how early a stage the hugely improbable surmise of a murder committed by a young woman of one-and-twenty, was seriously taken up, and the letter by which the deceased was supposed to have been lured to his fate, brought in as a clue to farther investigation. Let him mark how the ends of justice were sought to be attained, not by an investigation into the causes of death, terminating, as a *dernier resort*, an inevitable necessity, in the committal of the accused, but in surmises of her guilt being allowed to run at once into an elaborate and expensive effort to convict her of murder. As if this were either a just or a natural course! As if her life and character were utterly beneath regard! As if the law officers of the crown were officially bound, not to defend people from jeopardy, but to drag them into it! As if murders by young ladies just out of their teens were so common a mode of extrication from difficult dilemmas, that the public prosecutor must, forsooth, interfere, revealing secrets and exposing confidential letters with a harrowing officiousness, and trying a case in which numbers of the most intelligent members of the community pronounce the charge he has sought to establish utterly incredible, while the opinion is all but universal that it is not proved. Am I wrong in denouncing as an insult to *common sense* this hastening at once, not only without exhausting the investigation of all the more innocent and

common, and hence more probable possibilities, but without ever seriously commencing it, to what is out of all question the most improbable of those possibilities? Is it less an insult to *common humanity* to pass over all the innocent possibilities, and adopt one so frightfully damaging to the character of the living; nay, to persevere in it, even after absurdity upon absurdity warns us that we have taken the wrong course?

To what a fearful extent this initial injustice colours all that follows, may not only be imagined—it is seen. It is seen, as we have said, in the obliqueness of the whole evidence; in the entire tissue of the prosecutor's address; most marvellous of all, it is nowhere more seen than in the speech of the eminent counsel who spoke for the accused. The figure of the panel is met at every turn as an accused or defended criminal. Her guilt or innocence, not the causes of the death of the deceased by arsenic, pre-occupy all minds, and by so pre-occupying them, quite forbid what was essential to the cause of truth and justice, a full and impartial, a calm and scientific answer to the question—how came this man to die by arsenic? Not a man in court but seems resolved to illustrate the truth expressed by the Roman historian, when noticing this strange propensity of mankind, in the absence of simple, known, natural causes of death, to set their fancies at work, and presume the strange, the mysterious, and the horrible. I repeat, the counsel of the accused did not escape the infection. The man of coolest and clearest intellect at the Scottish bar had his judgment unsettled by it. In his splendid peroration he cannot resign the idea of murder. After having had under his thumb the key that best explained the otherwise puzzling fact of a man's disappearance for five hours immediately previous to his return home in the agonies of death by arsenic—five hours during which he was noticed by no policeman, called on no friend, rung no doctor's bell, entered no druggist's shop, disturbed no family—he enters into the full spirit of this mysterious disappearance, and seems to see the dead man's wraith pointing with lean fingers and ghastly stare at some unknown murderer. In fact, he found himself driven to defend his client by the same sort of excitement that had been employed so unmercifully against her; setting against the horrors of a murder alleged to be committed by her, the still more horrifying picture to the jurymen of another jury met to pronounce upon the guilt of the real murderer, but not until, by their credulity and rashness, they had secured the ignominious execution of an innocent young woman. Murder, murder, nothing would do but murder!

The coroner's inquest in England, in the rude state in which it has come down from a remote age, may have much to make it unpopular. It may often rudely, and sometimes needlessly, break in upon private life, and lacerate domestic feelings by a rough though honest handling of matters of the nicest delicacy. But one thing it does not do. It is untrue to its proper object if it ever gives an oblique direction to judicial investigation. Its object is not accusation, but inquiry. It seeks evidence of all kinds, from all sides, and from all persons. The evidence sought and the evidence taken is jealously watched by the public eye; partiality is thus checked at the threshold, and defective, blundering, or partial general evidence, is infallibly corrected by the timely publication of all the proceedings. How much the want of this is to be lamented in the case before us, appears from the amount of important evidence supplied by the public press since its

close. But even had there been no evidence to be added or corrected, the previous ventilation of the subject, by means of a coroner's inquest, would have been an immense public advantage. We should not in that case have seen fifteen men thrown at once into the intense excitement of a nine days' trial, with the tension of their faculties unrelieved by any intercourse with the world beyond them, and in that state called upon *instantly* to form a judgment on a vast accumulation of such facts, dates, coincidences, inferences, suspicions, lights and cross lights, indications of character, intentions and purposes, as even the most intelligent and comprehensive mind might well require months and not days to weigh and pronounce upon.

Shall we, then, have no investigation? Certainly investigate, say both common sense and common humanity; but start from the right point. If a shepherd lose a sheep, he goes first to the most likely place to find it, and only after failing in his search elsewhere, does he go to the least likely place. If, indeed, a credible witness say that he actually saw it in the most incredibly unlikely place, he will attend to that witness's report; but if it be not an eye-witness, but merely a man who guesses from certain indications which the shepherd perceives at a glance to be very deceptive, he will steadily resume his purpose of searching for the sheep where the sheep is most likely to be.

Now here is arsenic in a dead man's body, and causing his death. Let us glance over all the possibilities and probabilities that may account for its being there, and take them up in the order of greater or less general probability.

Arsenic is not only a virulent irritant poison; it is largely used in the useful arts; it is far from being an uncommon medicine; it is used, also, although rarely, as a useful drug by persons in health, from its having a tendency to improve the complexion and to invigorate the chest; lastly, it is used externally as a cosmetic, to give whiteness and softness to the hands and arms.

Thus we see that the craft of murderers has by no means any monopoly of arsenic; and the purchase of it, and the possession of it, nowise necessarily indicate a murderous purpose in the purchaser or possessor. Even when a death has been manifestly caused by its cruel agency, we have many presumptions to guide investigation before we come to murder. For see:—

- a. Accidental administration by the deceased himself;
- b. Accidental administration by another;
- c. Rash and ignorant administration by the deceased himself;
- d. Rash and ignorant administration by another;
- e. Habit of rash self-drugging by the deceased himself;
- f. Rash drugging of the deceased by another;
- g. Suicidal administration by the deceased himself;
- h. Homicidal administration to the deceased by another;
- i. Ditto, under circumstances of peculiar unlikelihood.

Now, as the hypothesis of murder in the case before us unquestionably involves circumstances of unheard-of atrocity, and consequently unlikelihood, it will be seen that the probabilities against it are $a + b + c + d + e + f + g + h$; in other words, immense.

But this is very far from representing the true amount of improbability

attached to the hypothesis of murder under circumstances of peculiar unlikelihood.

For, see again. Although I have no tables of the actual averages to appeal to, I am surely not far wrong in assuming, that of deaths caused by arsenic, the per centage under the various items of the above category may be put down thus :—

Accidental poisoning by the deceased,	15	per cent.
“ “ by another,	15	“
Rash administration by the deceased,	7	“
“ “ by another,	7	“
Self-drugging by the deceased,	10	“
Drugging of the deceased by another,	5	“
Suicidal administration by the deceased,	35	“
Homicidal administration (ordinary),	$5\frac{99}{100}$	“
Homicidal administration, where sex, youth, education, and position make it unlikely,	$0\frac{1}{100}$	“

Here the probabilities are as 10,000 to 1 against such a murder as in the case before us.

To the lovers of the horrible, for its own sake, sentimentalists of the Mrs Radcliffe and Monk Lewis' schools, this is truly depressing. Yet I am convinced I have greatly over-estimated the chance of our having a real live female murderer of one-and-twenty, eating bread and butter at tea like other misses at seven o'clock, and dispatching a young gentleman, who stood in the way of her being married, at midnight. How much more depressing when, in addition to the attractions of the simply horrible, there may be feelings of personal spite, or the ambition of official zeal to gratify!

As, however, there was unquestionably a death caused by arsenic, there was unquestionably, also, need for investigation. Unfortunately, there was no coroner's inquest, and hence no straightforward impartial investigation. From the evidence, nevertheless, brought forward at the trial, and some that has been added since, one may, without much difficulty, draw up some resemblance of a coroner's proceedings, making the investigation start from its right point, and depriving it of all its obliquity. This is what the author first set himself to do, under the strong conviction, for which he was indebted to many years spent in historical study, that a popular delusion was a much more likely occurrence than an unprecedented prodigy; and from the uncontrollable propensity he felt either to shudder or laugh at the pretensions of the prosecutor's address to the jury, and the demands he made on their credulity. But under that form he found his preparations for the press by far too prolix and cumbersome. Consequently, he has thrown the substance of them into the form they now bear, of the summing up of the presiding Judge in a Court of Common Sense and Common Humanity.

CHARGE TO THE JURY.

GENTLEMEN OF THE JURY,

The case before us, in so far as it is a charge of murder, is one of purely presumptive evidence. As such, our judgments must be guided in it by the rules of presumptive evidence, and by those alone. What those are we shall ere long see. As a case, however, of wrongous imprisonment and defamation, it is one of positive evidence, and is thus a very serious one, indeed, as respects the public prosecutor. For if his charge amounts at most to a surmise, and if the negative of that charge is proved not only by an immense preponderance of probability, but by positive evidence of innocence, and it be further proved that from negligence or self-delusion he has perverted the evidence, I apprehend that it will not avail to say that the remedy for such wrongs to the accused lay in her counsel. She might have been too poor to have had any adequate defence, and it is preposterous to say that her Majesty's subjects may be lawfully subjected at any time by the weakness of her law officers, to such a frightful ordeal as a trial for murder, merely because those functionaries have allowed themselves to be carried along by the delusion of the day, and under that delusion run into the popular belief that holds *omne ignotum pro mirifico*.

I am aware, Gentlemen, that this is very high ground. You will ere long see that it is sure ground. Difficult as it often is to establish a negative, unless in the case of an *alibi*, you will soon see that one can hardly conceive a negative to rest on a broader or firmer foundation. Meanwhile let me repeat, *the charges in the indictment rest wholly on surmise*. The prosecutor admits that he has not the vestige of a proof that the panel was ever seen to mix poison in food offered to the deceased. Neither does he point to a single spoken, written, or otherwise indicated intimation of a murderous intention in the accused. He solemnly charges her with deliberate attempts at murder, and with final success in those attempts, simply because he fancies her guilty, and he has contrived firmly to convince himself of the truth of this fancy, and to impose it on others by a long story, in which facts which have nothing horrible in them are so jumbled with surmises which have nothing true in them, that the facts blend the colour of their truth to the surmises and the surmises lend the colour of their horrors to the facts. Meanwhile common sense and common humanity are alike revolted.

Charge of perfidy a surmise.

No doubt exception will be taken to such an absolute limitation of the evidence of guilt, to the hypothetical or presumptive. It will be said that

though the charge of an unheard-of murder be presumptive, that of unheard-of perfidy is proved to demonstration. "I am not guilty of defamation," the prosecutor will say, "in indicting for a horrible murder on mere conjecture, because I can produce positive demonstration of a horrible perfidy." This is certainly a plausible defence.

A gross misconception.

It is a defence, however, which will not stand a moment's scrutiny. It is founded on a gross misconception of the relative position of the two sexes in Christian society, and is flatly contradicted by the very evidence alleged in its support. It is founded on a gross misconception of the relative position of unmarried men and women. Young women dare not prudently or safely bestow their affections where they please. The very position of a young woman in society, as one who is expected not to woo but to wait to be wooed, teaches her that if she bestow her affections at random on some young man who does not care for her, or with whom, if he cares for her, she can have no prospect of being happy as his wife, she must lay her account with having to withdraw her affections from such an one, and direct them, often by a painful effort of her will, to some suitor whom her parents approve, and who presents a fairer prospect of matrimonial happiness. We have a strong case of this kind in the writings of that great female moralist, Hannah More. In her "Cœlebs" she represents one of the most perfect female characters in that work as, from deference to her parents, withdrawing her affections from a pious young clergyman, and actually marrying a wealthy, but heartless and tyrannical squire. The principle thus inculcated is, that a woman's affections should be guided by her will, and her will by her views of duty; and there would have been no inconsistency had Miss More represented this determination of the young lady's parents as a subject of correspondence and conversation between her and the clergyman, and her assuring him that not a selfish change of affection, but the imperative voice of duty alone, compelled her to give him up. Yet, in the face of this obvious truth, the prosecutor maintains that nothing but a perfidious ambition could have induced the accused to do precisely what Mrs Carlton, in "Cœlebs," does,—to resolve to transfer her affections from one man to another by a strong effort of her will, and from deference to parental authority and the call of duty. Any difference between the two cases is altogether in favour of the accused. For added to all those motives of filial regard and duty which had influenced her on two previous occasions, and which now existed more strongly than ever, she found that her first attachment had become a snare to her, had led her into sin, and that she dared not express the bitterness of her soul to the deceased, at the thought of their neither being married nor having any prospect of being married, without imploring pardon and forgiveness, and was punished, nevertheless, by having her letters insolently returned.

A gross mis-statement.

But in thus professing to found a surmise of murder, not on a surmise but on a demonstration of perfidy, and thus deluding the Court with the phantom of a fact, the prosecutor not only proceeds on a general misconception, but on a gross mis-statement of the evidence. He represents the deceased as only demanding his wife. But the deceased himself had

taught the accused that their marriage was a mere delusion. Long after he had broken down all the barriers of maidenly reserve by an abuse of the terms husband and wife, he had distinctly let her know that whatever she might think, he, at least, did not hold the tie indissoluble without death or divorce. Disappointed in the atrocious policy by which he had hoped to concuss her into a disclosure of her position to her parents, and those parents again into an approval of their marriage by the demands of her position, we find him asking back his letters (No. 37), threatening to evade the responsibilities of a husband and father by going abroad (No. 43), proposing a mutual separation (p. 111), which she honourably declines, still trusting to an elopement. In short, the prosecutor's pretended husband, instead of supporting his wife, or openly demanding her from her father, has his *jus mariti* confined to the privilege of sneaking into that father's house at midnight, but not till well assured that he runs no risk of being ignominiously turned out of it, or handed over to the police, and of exacting the most preposterous compliances with his sovereign will in his helpless victim. And the pretended wife enjoys her matrimonial rights in having the choice of either being the mere mistress of the deceased or of sallying forth with his letters and commencing an action against her lover, who, on the first hint of such a proceeding, would be sure to be off, no one knows where, leaving her to starve on the streets. The prosecutor himself lets out his own real view of her position as totally different from the representation he found it convenient to make in Court, when he speaks of her as being *turned off*. Men break with their sweethearts, repudiate their wives, *turn off their mistresses*.

Awakening to a consciousness of her true position, we see the accused give vent to her feelings in a letter full of the most ardent love and touching pathos. (No. 97, P.S.) Yet even this she feels she dares not do without asking pardon and forgiveness. Instead of this she gets only an insolent return of a letter which we have every reason to believe was written in the same strain! And from the only extant letter of the deceased to her, written soon afterwards, we find that this insolent suitor who had, by his past villany, forfeited all honourable claim to her hand, addresses her as his wife—the woman whom he had so lately before proposed to separate from—and, without a single suggestion as to how they might be lawfully married, expects her to consider her continued connection with him as “a happiness to be enjoyed,”—not what she truly considered it to be, notwithstanding her passionate attachment to him, a calamity to be deplored!

Gentlemen, I am not disputing the prosecutor's right to rest a charge of perfidy on surmise. That is not now the question. What I insist is, that he shall not delude himself or others with the notion that this charge of perfidy is a positive fact. I insist that the accused was far less chargeable with perfidy when, in January last, taking the insolent rejection of one of her letters as a rejection of herself, she declared a final separation, than on those two former occasions of a separation when she wrote to him with so much propriety and dignity, and when not even the prosecutor charges her with perfidy. Moreover, and let me particularly press this upon you, the charge of being solely influenced in this by a selfish ambition is purely gratuitous. Every *prudential* reason for a separation that could justify her desiring it in October, 1855, existed *a fortiori* in 1857; and, when her position was so desperate that she dared not even lament her not being married without

having to ask forgiveness, and, after all, without obtaining it, assuredly it showed that the *moral* reasons had become *imperative*. The appearance of Minnoch as a suitor materially influenced the question. It is clear that it immensely fortified her father's position against the deceased, by depriving his daughter of the common plea, that though the deceased was not a desirable match it was the only one that offered. In a word, amid the tumult of her thoughts, and while distracted by her passionate fondness for her first love drawing her one way, and her strong conviction that Providence had all along, and now more than ever, frowned on their attachment, together with her filial affections and sense of duty drawing her in the other, it was a most justifiable and natural resolution on her part, while lamenting her past weakness in twice departing from the virtuous resolution of separation, *to put a third relapse beyond her power* by at once accepting another's hand—justifiable, I mean, as respected the deceased, whatever it might be as respected Mr Minnoch, which is not now the question.

Thus, Gentlemen, we see that, in point of fact—God forbid I should say in point of intention—this representation is absolutely false. When the prosecutor represents the deceased as telling Kennedy, with tears in his eyes, of the accused having written for a return of her letters early in February, and consequently after her having accepted Minnoch, as if *then first* he had reason to dread the decision thus intimated to him, how happens it that he omits to tell that the deceased had himself to thank for this—that his tears were those of vexation at his own folly, not at her unfaithfulness—that several days before her acceptance of Minnoch, a *casus belli* had occurred fully justifying that decision—namely, a most touching and affectionate complaint on her part, for which assuredly she needed no forgiveness, and yet for which he had the brutality not only to refuse forgiveness, but to take occasion to offer her a deliberate insult? All this of course he took care to conceal from his friends, leaving his poor victim to bear the whole brunt of this pretended perfidy.

But we shall be told, that though there be no perfidy in accepting of Minnoch, so long as the absence of all evidence of any but an insulting answer to her affectionate and pathetic letter of the 23d January, seems fully to justify that bold step of the 28th, still the proof of perfidy becomes positive afterwards when she represents the feud as made up, and matters replaced as formerly, at the very time that she was arranging her marriage with that gentleman.

Here, however, the prosecutor is still more flatly contradicted by the evidence. Look at the nine last letters written by the accused to the deceased, and the fact stares you in the face, *that she did not replace matters as they were before*, but in spite of a terrible threat, had the courage *to place them on a very different footing*—a footing that perplexed and distressed the deceased, and made him come away from every meeting with her, impressed with the idea that she wanted to get rid of him. He saw, Gentlemen, what nothing but the mortal obtuseness caused by a delusion prevented the prosecutor from seeing, that by resolutely ceasing to subscribe herself as his wife—the very idea that she had cherished in all her letters for more than a year before—she is resolved that matters shall be *on a totally different footing*. He evidently tests this by a letter—the only letter of his to her in the evidence—in which he addresses her as his wife, and subscribes himself as her husband, *but in vain*. There is no

reciprocity. She neither calls herself his wife nor hints at her ever being so. Thus, all the superabundant affection shown in those last letters, alleged to be so perfidious, resolves itself into exactly such an affection as led Robin Gray's wife, when she saw her first lover Jamie on his return, "to tak but ae kiss and tear herself awa'," or that of Mrs Carlton towards the young clergyman of her first affection, when she had to prepare him for the decision she had made in deference to the wishes of her parents. In gradually breaking to the deceased the decision which his own insolent treatment had nerved her to make in compliance with the voice of conscience, filial love, and prudence, she had much need to convince him that she still loved him most tenderly, and perhaps never more than when thus about to be torn for ever from him. This she does, but she does no more, even when her anxiety about him drowns every other feeling, and tempts her to use expressions of fondness that nothing but the change in her signature can rightly explain.

Position and probable motives of the accused.

As this preliminary point of the perfidy, as well as the murder alleged, being *at most hypothetical*, is one of the highest importance, let us carefully survey her position and probable motives. The feud, in so far as her heart was concerned, was a wonderfully gentle one. How few women in her circumstances would not have flared up into a towering passion on receiving an insolent return to such a letter as that of 23d January! Having resolved on a separation, after the approved fashion in such cases, she affects indifference, and even resentment. She begins in that strain; and had she been really estranged and angry, as the pen moved along the paper we should have seen these feelings warm into stronger and stronger expressions. But we perceive precisely the reverse. As if the letter did not sufficiently betray the triumph of the heart over the judgment, there follows a postscript that proves her inmost soul was still placable and loving. All her romance had lain for years, not as the prosecutor pretends, in a deep-seated ambition, but quite in the opposite direction, of sharing the humble fortunes of the man she loved, and her heart still yearns towards him even after he had done her an irreparable wrong. The decision she had now for the third time wisely and firmly made, she must communicate to him in asking that mutual return of letters which he had himself before proposed, and had now openly provoked. Even under insult she does this with a touching tenderness. Never was there so exquisite an exhibition of a woman's unselfish love. With what fierceness of invective would a murderess have attacked the man who, by imposing on her weakness, had caused her so much mental torture, only to be trampled upon the moment she ventured to utter a word of complaint to her only confidant on earth? How would she have dwelt on all his petty carplings at her enjoying that society into which he could not introduce her as his wife? Instead of this, we see her take the whole burthen of blame off him on herself—on her own fickleness and resentment of well-meant reproof.

Then comes the threat of exposing her letters, and the preposterous demand that he, who took upon him none of the responsibility, should have all the rights of a husband, and that she who had none of the honour, should show all the compliance of a wife. This places her in a painful but not,

after the first alarm, in a hopeless predicament. She had to dread not only her father's seeing her letters, but what must have greatly perturbed her, the excitable temperament of a man who had frightened her as he had frightened others, with threats of committing suicide, or who might worry himself into ill health and die. Common sense, however, of which, as she grew out of girlhood with its romance into womanhood with its realities, she seems to have had a large share, may have pointed out a course somewhat more consistent with anything short of downright insanity than murder.

The whole strength of the position of the deceased lay in his having got her committed by her letters to marry no one else. Now, therefore, *at any risk*, she must re-assert her independence; she must absolutely refuse his matrimonial pretensions, and restore matters to the footing of a very hopeless courtship. She resolves, therefore, to let him know that matrimonial responsibility must accompany matrimonial pretensions, and well knowing his dread of the one, she could not but count pretty surely on his ere long resigning the other. The deceased had not long before been convinced of the hopelessness of their prospects. He had himself proposed a separation; why might he not be so convinced of this again? But she had not then affected or shown indifference to him. There was no feud. Prudential considerations, alone, as respected both himself and her, had influenced him. Any show of indifference on her part, by wounding his pride, had only made him persist the more in his pretensions. She had therefore the difficult task to accomplish of at once refusing him the claims of a husband or successful suitor, and disabusing his mind of what her heart told her was really a false impression, that in desiring a separation from him, she did not entertain towards him a most tender regard. Thus the more firmly she refused the former, the more profusely did she lavish on him the latter. Common sense and common humanity teach us thus to interpret her repeating, *verbatim et literatim*, all her old terms of affectionate endearment, in her endeavours gradually to bring him round to the conviction that not want of regard for him, *but a true regard for him*, as well as for herself, compels her to separate from him—that their intercourse, twice broken and twice resumed, is more than ever a snare and calamity to both. Still she must temporise. All this she dared not say at once. But that this was *the drift* of the conversations they had posterior to the threat, appears clearly from this, that he evidently came away from them with the impression that she wished to get rid of him, and not only ceased to subscribe herself as his wife, *but as he significantly notes in his short diary*, although he dared not enter the house except when her father was absent, and her sister slept with her mother, *he was excluded from her room, met in C. H. room, the dining-room, the drawing-room, never her own room*. To all these significant indications that the altered moral tone that had begun to mark her character entered into those conversations, we may add the touching fact, that the last notice the deceased records of Mimi, now that *she had resolved to begin a new life with another* and a very different lover, was her promising him a Bible in his native tongue.

As for Mr Minnoch, she feels that she has accepted him under a double misconception—a misconception of the feelings of the deceased towards her in rejecting her letter, and a misconception of her own personal independence. She writes to him accordingly, not in the least in that strain of

warm attachment which, *had she been perfidious*, no one could have expressed in more glowing language, whether she really felt or merely dissembled it, *but with studied reserve*. Contrast the letter in which this traitress rejects her first love, with the note in which she first addresses his successor, and you will find in both the triumph of principle and prudence over mere passion, though displayed in different ways. In the first, the heart betrays itself in the outbreaking of the old deep-seated ardour of a first love; in the second, the heart also betrays itself by speaking the language of duty rather than affection. Both are eminently truthful.

No doubt, Gentlemen, the accused stretched a point too far when she said to the deceased that she was under no other engagement. But this was said in her agony, and she had some plea in conscience for it. She might plead that an engagement made under a double misconception of her power to make it, was not really binding and might be recalled, and that till she clearly saw her true position, she could do nothing better than address Mr Minnoch with such an entire absence of anything like passion, as might prepare him for being told that "a dark cloud" in her destiny forbade her ever marrying him. But, however we may censure her conduct in all this, of which hereafter, one thing is perfectly plain, that it is preposterous in the prosecutor to pretend that his presumption of murder rests on anything more than a mere presumption of perfidy. No! it is a presumption resting on a presumption—a guess on a guess.

Force of Unreasoning Prepossessions.

The drift of these observations you will readily perceive. They are something more to the purpose than unsettling men's judgments by conjuring up sentimental horrors at the opening of a review of evidence in such a case as this. Lord Cockburn, in his "Memorials of his Own Times," says perhaps the only really foolish thing he ever said in his life, when he ridicules Lord Eskgrove for arguing first that a thing was impossible, and then that it was improbable. The queer old judge may have observed on the faces of the jury a strong expression of incredulity on hearing even very complete evidence of impossibility, owing to some rooted unreasoning prepossession to the contrary, and this he may very rationally have sought to remove by adding proofs of improbability. To my mind, the evidence in this case, both physical and moral, makes the guilt of the accused an absolute impossibility. For the life of me, I cannot believe in the physical possibility of so dangerous and insoluble a poison as arsenic permeating the entire body of a man, so as even to be found in his heart and brain, by means of two or three doses given in six weeks. These doses, if weak, could not, I think, have caused such a diffusion; if strong, they must have sooner caused death. By only two modes can I believe it possible that such an effect could be produced,—either by long years of drugging in very minute doses, so as to admit of absorption without violent spasms and death, or by boiling it into the body over a slow fire. I find much to produce, nothing whatever to remove this conviction, in the evidence before me. The professional witnesses were not questioned directly on it, and on the diffusibility of arsenic through the living tissues, experience proves they were manifestly wrong. Again, moral conviction of impossibility overwhelms me at every turn. For instance, I think it

morally impossible that a person who is bent on murdering another, should, in letter after letter, harp about his health, and thus, instead of accepting aid from natural causes, do her best to thwart her own purpose, and to lead to the discovery of her own villany, by inducing her victim to consult a physician. Struck with the frequency of such, to me, manifest impossibilities, I either nauseate the prosecutor's elaborate efforts, or I laugh at them. But how much otherwise might it have been had I lived amid "those feelings of commiseration and horror which the age, the sex, and the condition of the prisoner," it was said, "must produce in every mind?" As it is, Gentlemen, the only horror with me is the horror of seeing a young woman of one-and-twenty, and who appears to have been engaged in a resolute effort to emancipate herself from a hopeless and ensnaring passion, and to live a new life of virtuous compliance with the wishes of her parents, accused of a crime she never even meditated, and, though manifestly innocent, under the influence of a public delusion, not only suspected, but tried, and all but hanged. Yet I dare not say that, if subjected to the immediate influence of such epidemic horrors, I could have retained the calm use of my judgment. I, too, might have been carried away by surmises, which were no sooner imagined than they were accepted by myriads not only as high probabilities, but as positive facts. I, too, might have been blinded to refutations of the charge alike of perfidy and murder lying on the very surface of the evidence, and which no mortal, *possessing the ordinary use of his faculties*, could possibly have overlooked. Hence you are not prepared for an impartial review of evidence until disabused of all such disturbing and blinding influences, and until you see clearly the ground from which you start, and the kind of evidence, as well as the rules of evidence required.

The ground, then, from which we start is that of a surmise of murder, resting on a surmise of perfidy. It is by presumptive evidence, and by that alone, that the prosecutor can legitimately convince himself, or attempt to convince others, that the crime he alleges is a fact, not a fiction, or, more properly speaking, phantom—a hideous waking dream.

Presumptive Reasoning subject to Positive Rules.

But let not this dictum carry you too far. It seems, unfortunately, to have been forgotten in another place, that much of the evidence fell under far more positive rules than the mere weighing of surmises by the standard of general truth. The value of a surmise depends on the truth of the facts that have suggested it, as well as on its general verisimilitude. When we come, therefore, to test those facts, in order to ascertain whether they are true or false, or truly or falsely represented, our judgments may have really very little of the latitude which is too often arbitrarily assumed. Thus, it is not a matter of choice, but of moral obligation, invariably to reason from the known to the unknown—not from the unknown to the known; to test surmises by facts, not facts by surmises. In deducing an inference from several particular facts, we must not leave out such as do not suit some preconceived conclusion, but fairly admit all. A competent must always be preferred to an incompetent or to a less competent witness. If two witnesses to one fact don't agree, we must do our best to reconcile them, but certainly not believe or disbelieve just so much of the testimony of each as suits our purpose. Where surmises nearly balance each other, our judg-

ment must be determined, not by caprice or prepossession, but by the preponderance of general probability. Where a professional man gives an opinion, or states a fact from positive professional knowledge, we ought at once to defer to him; but if he speaks from mere conjecture, we must remember that professional experience does not preserve a man from prepossessions and delusions, and that such men are often marvellously wanting in common sense. To neglect these rules, under the pretext that in the absence of positive evidence of the crime alleged we must necessarily look only to presumptions, is to all intents and purposes to violate the awful sanctity of a juryman's oath.

How, will you say, are we to distinguish presumptive or probable from positive or demonstrative evidence? Let us hear what the great authority on such subjects—Bishop Butler—says: “Probable evidence is essentially distinguished from demonstrative by this, that it admits of degrees; and of all variety of them, from the highest moral certainty to the very lowest presumption. We cannot, indeed, say that a thing is probably true upon one very slight presumption of it, because, as there may be probabilities on both sides of a question, there may be some against it; and though there be not, yet a slight presumption does not beget that degree of conviction which is implied in saying a thing is probably true. But that the slightest possible presumption is of the nature of a probability appears from hence that such low presumption, often repeated, will amount even to moral certainty.” And farther on he says: “So likewise—our expectations that others will act so and so in such circumstances, and our judgment that such actions proceed from such principles, all these rely upon our having observed the like to what we hope, fear, expect, judge; I say, upon our having observed the like, either with respect to others or ourselves.”

Presumptive Evidence lies in Verisimilitude.

Thus you see that presumptive evidence lies wholly in likeness to truth—*verisimilitude*. These admirably-expressed principles show at once to what an almost unappreciable presumption that of the murder here charged is reduced by right reason, and severely do they rebuke the readiness with which that presumption has been received, not only as a high moral probability, but as a fact. Can any of you, Gentlemen, say that the horrible tale of perfidy and murder, with which the prosecutor, in a speech of fifty pages, entertained the country, is either in its general result or in the details as he represented them, like to what you have ordinarily observed, or read, or heard of being observed, either with respect to others or yourselves? Can there be any verisimilitude in a hypothesis which, in professing to remove some difficulties, starts many more, which required such immense elaboration in order to smooth down the absurdities which shock one at every turn, and where the *denouement* is absolutely without precedent in the history, not of Glasgow—not of Scotland—not even of Europe—but of the human race? Not one of you but must have observed a thousand times the readiness of the human mind to connect the horrible with the unknown in cases of sudden death, to entertain the darkest suspicions on the slightest presumptions, and to allow the imagination to determine the judgment in the absence of evidence or even against evidence. But not one of you has ever observed or heard of such a tale, I do not say of horrors only, but of horrors intermingled with such palpable absurdities—

a tale, which we may truly describe in the words of the poet Virgil, as *monstrum horrendum ingens cui lumen ademptum*—which we may translate: a horrible and huge prodigy, utterly wanting in common sense. And observe, Gentlemen, when in going over the evidence we allow our judgments to feel the full force of this enormous improbability, we nowise yield to an improper and disturbing prepossession. — We merely introduce as a counterweight to that inveterate proneness to the mysterious and the horrible, which is common to ourselves with all mankind, that calm estimate of the enormous improbability of such a tale which universal experience inculcates and proclaims. We must allow our judgments to be determined, in the surmises submitted to them, by likeness to truth; and this enormous improbability is unquestionably one of the general truths according to which we must judge this purely presumptive charge.

CORPUS DELICTI must first be established.

“It is now,” says Mr J. H. Burton, speaking of the trial of Captain Green, “an established rule through all civilised jurisprudence, that the first step in criminal procedure is to ascertain that a crime has been committed, and then to find who committed it. This is what lawyers call establishing the *corpus delicti*. The opposite and dangerous rule is, to accuse a person of a crime and then discover what crime he has committed.”

With a marvellous contempt of this rule of all civilised jurisprudence, the prosecutor, in this case, with a gravity which in less serious a matter would be laughable, first charges the panel with murder, and forthwith holds the *corpus delicti* established—that is, he assumes that a murder had been committed, while, even on the face of the evidence adduced by himself, there are palpable indications, or rather proofs positive, that no murder had been committed, which indications or proofs find their complement in the evidence adduced for the defence.

CORPUS DELICTI disproved.

Let us see. The deceased died on the forenoon of March 23d, of cholera, after having left his lodgings, apparently well, about nine o'clock the night before, and having returned at about half-past two, suffering from violent spasms. His landlady expresses her surprise. The man went out well and returned dying. The doctor shrewdly asks: Did he tittle? He did not ask if he had got drunk. That would have at once betrayed itself in an alcoholic smell. No, he asked if he was a man that tiddled. That is, was he a man who, from long-continued habits of absorbing alcohol in quantities too small to cause spasms and be at once rejected, was likely to have that poison diffused all through his body, and thus, though able to go about his ordinary business in apparent health, to have such a predisposition to cholera that exposure to over-fatigue, cold, and damp, would inevitably bring it on.

It was a most pertinent question. For it is a well known fact, that the living body, under the gradual absorption of a diffusive poison, though violent spasms and death may not occur, and though on the contrary it so accommodates itself to the poison as gradually to absorb quantities that at last seem incredible, nevertheless acquires a chronic pre-disposition to deadly illness on exposure to cold, damp, night air, over-fatigue, and exhaustion. Now, as this, and the other late illnesses of the deceased,

which Mrs Jenkins no doubt mentioned to Dr Stevens, had occurred after exposure to these unfavourable influences, they pointed pretty clearly to the presence of a diffused poison. The grand error of Dr S. was his stopping short at alcohol as a guess, and at Mrs Jenkins as an informant. He might have extended his investigation both ways. Other poisons by gradual absorption and diffusion cause a like predisposition. He might have thought of tobacco, opium, mercury, lead, and arsenic, particularly the two last. And had he questioned the two countrymen of the deceased, to whom his private notions and habits were likely to be best known, they would have materially aided him in answering the question. For the one would have told him that the deceased was in the habit of taking laudanum in such quantities that he had to warn him on the subject, and the other would have both confirmed this, and added the telling circumstance that, in a half-hour's conversation with him on the subject of arsenic, he had insisted that when taken in small quantities it was quite harmless. This looked very like a defence of himself for taking it, and he may have taken the laudanum to soothe the irritation caused by the arsenic.

Once informed of this, the doctor would have been furnished with a hypothesis exactly fitting the case. In order to cause the chronic predisposition to violent attacks on exposure to cold and damp, there must be general diffusion, and in order to general diffusion, especially of such a virulent and difficultly soluble poison as arsenic, there must have been long-continued administration in minute doses. To suppose that two or three administrations of arsenic in the space of six weeks could produce the chronic state caused by general diffusion, would be more absurd than to suppose that the chronic predisposition to cholera caused by general diffusion of alcohol in a tippler, could be the result of a man's getting drunk three or four times in the course of six weeks. This would at once determine the question of either suicide or murder in the negative. Besides, sudden and powerful administrations of arsenic would induce violent spasms, causing either the rejection of the poison or death. In order to any such absorption and diffusion, long-continued administration in minute doses, therefore, must be assumed as an indispensable condition.

The next point of inquiry, suggested by common sense, would surely be to go back several years and make inquiries of persons who knew the deceased at that period. For if it generally takes long years of tipping to saturate a man's body with alcohol, how much more may we assume that it requires long years of drugging to cause saturation with so virulent and little soluble a poison as arsenic? Well then, Gentlemen, had the doctor written to Dundee, where the deceased resided five years before, one witness would have told him that he had expressed, only much more strongly and circumstantially than he did to M. de Mean, such notions on the subject of arsenic as left no doubt on the mind of his informant that he habitually took it. He said that on one occasion, having the charge of some horses on a journey, they were very much knocked up, and that he had given them arsenic. "I was not acquainted," says the witness, "with the effects of arsenic, and when he mentioned the circumstance, I was interested in it, and asked him about it. He said he gave it to them to enable them to accomplish the journey. I asked what effect this had? He said it made them long-winded, and thus able to accomplish a feat. I said, was he not

afraid of poisoning them; and he said, Oh, no! So far from doing that, he had taken it himself. I told him I should not like to try it; and he seemed to say that he had not felt any bad effects from it; that there had been no danger, or expressions to that effect. He mentioned another effect of arsenic, which was that it improved the complexion. I inferred from his remarks that he took it for that purpose.—He also said that he complained of pains in his back, and had a little difficulty in breathing, and he said it had a good effect in that way. I am not sure he ever showed me arsenic. I rather think he did on that occasion—that he opened his desk and showed me a paper containing something white; he either showed it to me or said he had it. He did not say in what shape he took it or in what quantity.” Such was the testimony, before another Court, of W. M. Ogilvie, and it might have been sent to Dr Stevens in a letter. Another witness, speaking of the same period (1852), curiously confirms it. Arsenic turned up as a topic of conversation in the one case owing to its connection with the horses the deceased had had the charge of in France. In this it was suggested by the accidental finding of a parcel of some powder which was supposed to be arsenic. This other witness would have informed the doctor that the deceased *had told him he used it regularly.*

Subornation suspected, but incredible.

And here, Gentlemen, let me remark, by way of parenthesis, that never was there evidence more reliable or more important than this. Of course it has been whispered, and by many is believed, that enormous sums had been laid out by the friends of the accused in suborning witnesses; and these Dundee witnesses will be said to have been suborned. But setting aside the striking verisimilitude of their whole testimony, their gathering up their recollections of conversations from the circumstances that suggested and the facts that accompanied them, how can we possibly reconcile with subornation the distant date of this testimony, when we perceive that, however directly it bears on the probation now led, it hardly bears at all on that adopted by the panel and her law advisers? The idea of connecting, in the way of cause and effect, the arsenic spoken of and used by the deceased in 1852 with that which killed him in 1857, seems hardly to have entered their heads. Such subornation, therefore, utterly improbable in itself, must appear, when we look to the date and the panel's line of defence, absolutely incredible.

An over-dose—when most probably taken?

The next obvious point of inquiry would be to see if the deceased had left any arsenic in his repositories. None whatever is found. Shall we consider this sufficient to overthrow a hypothesis which otherwise fits all that as yet is known of the case? Surely not. Death in this instance may have resulted not only from a longer than ordinary exposure to damp, cold, and fatigue, but from more than an ordinary dose. He had lately gone to the country, and would hardly omit taking his little store of arsenic along with him. Certainly he would not leave a virulent poison exposed. Taking it in very minute doses, a small quantity would be sure to last a long while. But at length it would come to an end. Now, when does a man who allows himself a glass or two of wine a-day generally take more? When is his wife most likely to add a little to her regular allowance of tea

to the tea-pot? When do such of you, Gentlemen, as take snuff, take a particularly large pinch? Is it not when the decanter is nearly empty—when a very little tea is left in the caddy—when a good large pinch will exhaust your snuff-box? Just so, when a man who habitually drugs himself with arsenic, takes an over-dose, it will probably be when his store is nearly exhausted—all the more if, having a long walk, and, after that, a long midnight engagement in prospect, he wishes *to perform a feat*, and thinks the emptying out of the parcel or phial may enable him to do so.

But if he finds the effects follow in sickness and pain in his stomach, it is natural to expect that he would take laudanum. Laudanum, then, may prove an important aid in tracing such symptoms to their sources. And this brings us to the very relevant question—When did the last illness of the deceased begin?

Illness on the road—proved, not disproved.

Two witnesses are brought to prove that he arrived at the Coatbridge station, by rail from Stirling, at about half-past four P.M. on the day before his death—that, betwixt that hour and half-past five, he took a hearty meal of roast-beef and porter, and then walked into Glasgow in robust health, and without any appearance of fatigue. Hence the inference that he could not possibly have owed the frightful symptoms under which he died next forenoon, to any cause antecedent to his arrival in Glasgow.

Now mark, Gentlemen, that even Dr Stevens did not assume this as a necessary inference. He did not doubt Mrs Jenkins when she said the deceased had gone out well. And yet he did not forthwith conclude that his illness could not have arisen from a cause antecedent to his arrival in Glasgow. So far from this, his very first conjecture pointed to a cause long antecedent to that—the presence of a diffusive poison causing a predisposition to cholera on exposure to cold, damp, and exhaustion. Had the symptoms been such as occur on exposure to such influences where there is a diffusion of mercury through the tissues, he would doubtless have considered all mystery removed on learning that the deceased had returned some months before from the East Indies with his liver affected, and had been undergoing a course of mercury. As it was, he suspected diffused alcohol.

But are we quite sure that the facts from which the inference, that he was perfectly well on reaching Glasgow, is drawn, are true or truly represented? We must not forget that the deceased had a strong inducement to represent himself as quite well to his worthy landlady, who otherwise would have remonstrated against his risking another of the terrible illnesses he had had, by again remaining out at night—still he spoke with a certain reserve. He was, he said, *almost well*. A man who walks fifteen miles on an afternoon in apparent robust health, and without fatigue, had surely some special reason for saying *almost well*. There must have been some ground for that reservation.

Let us next turn to the witnesses; and here we see at once that by a singularly suspicious process, a certain definite fact, and one, as we shall see, of the utmost consequence, is represented *as proved by two witnesses*, whereas *it is proved by neither*; and that it is only by a strange jumble of faith and scepticism that that result is obtained. For Fairfoul's evidence reaches no farther down than half-past five o'clock, after which, for all

he knew, the deceased may have been very ill on his way to Glasgow. If we believe, therefore, on Fairfoul's testimony, that the deceased was not ill on his way to Glasgow, we believe much more than his testimony bears. Ross, indeed, swears that the man who walked into Glasgow with him, was not ill down to his parting with him there. But we must either believe Ross, or we must disbelieve him. To take just so much of his testimony as suits our purpose, is preposterous. If we disbelieve him, then we have no positive evidence whatever that the deceased was not unwell on the road, for Fairfoul's testimony does not reach to that. And if we believe him, as little is there any evidence of the deceased being ill on the road, for his evidence distinctly proves that the man that accompanied him to Glasgow was not the deceased. That is beyond all doubt. The prosecutor dared not show Ross the portrait—he knew that he could not recognise it. He ventured to show him the coat worn that day by the deceased, and Ross swears that it was not the coat worn by the moustached and bonnetted gentleman who accompanied him to Glasgow. One may easily suppose a mistake made about a photograph by a man who, having seen several people at a railway station for a few minutes, two of whom had a general resemblance to each other, may have confounded the two faces, and fancied the photograph a likeness of the wrong man. But that a man with the use of his eyes should walk eight miles with a gentleman, and yet so forget the cut and colour of his coat, as to swear that the coat when shown him afterwards, is not the coat his fellow-traveller wore that night, is utterly incredible. Moreover, what he swears about the coat is immediately confirmed by a whole mass of evidence. For he swears that his fellow-traveller told him he had come, not from the Bridge of Allan, but from Alloa, mentioning the exact distance, eight miles. The talk of that gentleman had no resemblance to that of the deceased, and the robust health and vigorous walking of Ross's man is totally at variance with what the deceased had written only two days before to a friend in Glasgow, that "all his timbers were sore;" and, in a previous letter from Edinburgh, that he suffered from want of sleep. He attributed his soreness of limbs to cold from damp; but as he was predisposed not to rheumatism but diarrhoea, a cold from such a cause would have unquestionably taken that course.

With all these presumptions in favour of Ross's veracity, we naturally fall back on the testimony of Fairfoul, who swears that the man who accompanied Ross was the deceased—not because he had ever before seen him, but because he was the only moustached and bonnetted person that left the train at Coatbridge, and because he thought he recognised him in the photograph. Let us see whether this testimony has the same character of veracity which we find in that of Ross. I apprehend it has not.

For first, Fairfoul proves himself a loose speaker the moment he opens his mouth. He says: "I was guard of the train that left Stirling on the 22d of March at half-past three." Gentlemen, he was no such thing. He came from Edinburgh that day—not from Stirling. He thus represents himself as knowing far more about the Stirling passengers than he could fairly pretend to. He says afterwards: "There were not many passengers—about eight of all classes. None stopt at Coatbridge but these two. I am sure of that?" What sort of evidence, Gentlemen, is this? I lately asked a respectable station-master if the guards had anything to do with the passengers. No more, said he, than that basket—pointing to one.

In fact, we all know that when a train arrives at a station, the guard disappears in the luggage-van, and is busy turning out the articles labelled for that station; meanwhile, the passengers are stepping out, and delivering their tickets. Fairfoul was a competent witness as to his taking two gentlemen to Donald's public-house, but his testimony is absolutely valueless where he swears to his positive knowledge that out of an indefinite number of passengers in the train, two only came out, and those two Ross and the deceased. To this the ticket-taker or porter would have been a competent—the guard was the most incompetent of all witnesses. Thus we see him twice speak loosely—twice make really false representations; why should we suppose him more infallible in speaking to a likeness, than Ross in speaking to a reality—the one to a photograph of the deceased, the other to a coat which he swore was not that worn by his fellow-traveller?

Did the deceased leave train at Coatbridge?

But, Gentlemen, are we quite sure that the deceased did leave the train at Coatbridge? Probabilities are against it. On his reaching Glasgow, he told his landlady he had walked fifteen miles. As he lived at the West end of the town, he may have reckoned it about nine miles from Coatbridge. Add three miles from the Bridge of Allan to Stirling—that makes about twelve miles. About three miles have to be accounted for—that is, about an hour's walking. Now, is it not remarkable that we have just about an hour also to account for in point of time, seeing that the train arrived at Coatbridge about half-past four, and a witness is adduced to prove that he was buying laudanum there an hour afterwards. We shall find that there is a moral certainty that that man was he. May he not have been carried on past Coatbridge to Holytown, got out there only a few minutes later—the distance being about three miles and a fraction—and walked back? This is surely a more rational method of making out the fifteen miles, than that of a learned judge who thought it might be done by supposing him to have gone from the Bridge of Allan to Stirling by Alloa! Or, if not carried on to Holytown, he might have slipt out at some spot where the train took in water for the engine, before arriving at Coatbridge, and walked on from that spot. Or, having stepped out at Coatbridge, and disappeared in the W.C.—unperceived by either Fairfoul or Ross—he might have afterwards proceeded to Glasgow by a wrong road for a mile and a half, and have had to return. In short, there is little difficulty in making up the fifteen miles, if we but suppose that the greater part of the hour—from the arrival of the train to half-past five, at which time Fairfoul will have it that he started from Coatbridge with Ross, and at which time, also, a person very like him certainly took laudanum there—was spent in walking.

Opposed to this pretended evidence—for to call it anything better would be ridiculous—of the deceased first eating a hearty meal of roast-beef and porter, and then walking in robust health from Coatbridge to Glasgow, we find the very different evidence of the two medical men and Miss Kirk.

The slovenly manner in which such preposterously defective evidence as that we have now reviewed was allowed to pass, shows that the pet idea of a perfidious and horrible murder could no-wise be abandoned; but as if that were not enough, the same delusion that made their depositions pass

for evidence of what they *did not prove*, made those of the doctors at Coatbridge and Baillieston and Miss Kirk appear to be mere odd stories, not evidence of facts which *they certainly did prove*. Subornation, of course, is suspected here also. In a coroner's inquest evidence is impartially sought for on all sides. If not sought for impartially, the publicity of the proceedings invites it. Far otherwise in the case of a Scotch trial for murder. There the prosecutor may, as in this case, bring an array of 57 (!) witnesses to bolster up, with a huge inflation of empty surmise, a charge of unheard-of crime; but if the friends of the accused venture to seek for evidence on the other side, their witnesses are at once suspected to have been suborned. Here, however, the tables may fairly be said to be turned. More suspicious evidence than Fairfoul's and Ross's for the fact alleged, could hardly have been adduced. Believe those witnesses or disbelieve them, it matters not—they do not prove that the illness of the deceased had not begun on the road. That of the two doctors and of Miss Kirk prove that it did. Subornation is in their case incredible. Grant that Miller wanted to bribe them,—strange that the two doctors should have insisted on swearing falsely to laudanum instead of arsenic, which would have suited so much better—that one should have pleaded the darkness of the shop, owing to the glass door only lighting it on Sundays, as making him doubtful about the likeness, while the other is doubtful as to the date; and that Miss Kirk should have sworn to neither arsenic nor laudanum, but some white powder unknown. But one small trait, like one of the slight undesigned coincidences on which Paley builds his argument in his *Horæ Paulinæ*, seems at once to prove these suspicions to be as utterly unwarranted as they are unchristian and uncharitable. The distinctive mark of the deceased that afternoon was clearly the white handkerchief stuck into the breast-pocket of his close-buttoned coat. This Mrs Jenkins at once recognised him by on her opening the door when he came home that same night; and this, two of the above three witnesses particularly noticed. Neither Fairfoul nor Ross did so—another proof that their man could not have been the deceased. Besides, in such questions of identity, one witness may, from past habits, be worth a hundred. The testimony of an experienced shepherd on the identity of a sheep, is worth that of a host of persons who know nothing of sheep. An old army sergeant, in like manner, is a capital witness on the identity of a man. Generally speaking, women may be considered as better witnesses than men, when it is a man that is in question, and *vice versa*. Hence, when Miss Kirk exclaimed she never saw a better likeness than the photograph, her testimony is worth far more than Fairfoul's instant assertion, seeing that few men are likely to be worse witnesses in such matters than railway guards, from their daily seeing so many persons without having the slightest call to mark and recognise them.

Illness of the deceased on the road to Glasgow.

That the odd stories attributed to the Coatbridge and Baillieston druggists were neither more nor less than the simple truth—I have said is a matter of moral certainty. How can this be disputed? Admit that the evidence is not complete on either side; is not the fact of a man's dying of cholera on a Monday morning a powerful adminicle to defective evidence that he was taking laudanum for colic pains at half-past five, and again at half-

past six, the night before, while it is anything but an adminicle to defective evidence of his eating roast-beef, and walking sturdily to Glasgow, without ache or ail, the preceding afternoon? Moreover, if we are not to hold this as a moral certainty, a preposterous demand is made on our credulity. That two gentlemen were at Coatbridge on the 22d of March last, at about half-past five P.M., both having moustaches and Balmoral bonnets, is certain, nor is there anything very improbable in that. The one had come from Alloa, the other from the Bridge of Allan; the one was in robust health, and accomplished the walk to Glasgow without a halt—the other was not in robust health, and had to take twenty-five drops of laudanum at Coatbridge, and another twenty-five drops at Baillieston, in order to obtain relief from colic pains with which he had been attacked. One of them dies next morning of cholera, but it is not the one that had the colic pains! Stranger still, the man in robust health who died, had contrived to exchange coats with the man who was ill on the road, so as to appear at the door of his lodgings, not in the coat he wore when accompanying Ross to Glasgow, but with the coat and handkerchief of the man who bought the laudanum!!! It seems hardly credible that a delusion should have reduced men's reasoning faculties to such childish imbecility as to swallow this. Yet it was swallowed! The prosecutor, with his fifty-seven witnesses, had led the country to expect a tragedy, and the country was resolved on no account to be put off with a farce. Falstaff and his men must needs march through Coventry!

But, if the illness of the deceased began on the way to Glasgow, Dr S. must have had another insurmountable objection opposed to the idea of suicide or murder after reaching Glasgow. Nor is this all. Give the evidence presented by these odd stories, told by the Coatbridge and Baillieston druggists, their legitimate weight, and they convert the mysterious horrors of the five hours' disappearance of the deceased into one of the most ridiculous mare's nests that ever turned tragedy into farce or raised the laugh against a simpleton.

Tragedy turned into farce.

For see. The prosecutor asks if it is possible that any man can believe that the deceased was not that night with the accused—meaning, of course, with her as a victim, to be coaxed into swallowing the fatal cocoa that caused his death? Now, Gentlemen, when asked to say where he was during that five hours, if not with the accused, we may ask him where he was from twenty minutes past nine, when he left M'Allister's, until say eleven o'clock, when there is such abundant evidence to prove that he was not with the accused? No doubt this question would have puzzled him. But why? Does not common sense tell us that, after a long day's exposure to cold air, a walk of fifteen miles in the afternoon, and first one dose of twenty-five drops of laudanum, and then another, after he had likely swallowed the contents of the laudanum phial which he used to take with him in travelling, the man *must have been overpowered with sleep?* And once asleep, may he not have slept on until the opiate being slept off, the spasms would return and drive him home, alas! to sink under the last fatal attack of the enemy which he had so foolishly lodged in his own vitals under the idea that, taken in small quantities, it never could injure him? But where, on a cold March night, is he likely to have slept on leaving M'Allister's?

Of course, as near the windows of the accused as possible. Well, next to those very windows, as you will see on the plan, there is a very comfortable common stair, entering which, and ascending to the proper height, he might not only have sat down and planted his back against a wall heated by the flue of the fire in the room of the accused, but actually have placed his cold shoulders within a few, say six or eight inches, of her father's dining-room fire, and that, too, without any risk of disturbance late on a Sunday night. This surmise of the man's being asleep during those five hours, not only is attended with none of the incredibilities that so palpably beset the surmise of his undergoing the operation of poisoning, but is supported by various important adminicles, which, together, form a singularly convincing amount of independent evidence—independent, I mean, of the obvious probability that the combined influence of laudanum, fatigue, and exposure to the open air must have held him fast asleep as long as the spasms remained subdued. It is a surmise, in short, that answers so many questions, and removes so many difficulties, that it compels our belief. How else can we account for the state of extreme cold in which the deceased appeared at the door of his lodgings on his return at half-past two in the morning? Sleeping in a common stair till long after the dying out of the fires in the adjoining house, together with the reaction after the laudanum, would produce that cold—not the atmosphere of a warm room, and the stimulus supplied by hot cocoa and arsenic. How else are we to account for his absolute silence as to where he had been? How else are we to account for his referring at once to his diet at the Bridge of Allan, or “the coast,” as he called it, when Mrs Jenkins asked him if he had not been taking something that disagreed with him? Here we may place the prosecutor in a dilemma, on one or other of the horns of which his surmise of murder impales him. It is extremely unlikely that from the time of the deceased leaving the Bridge of Allan at afternoon church time on Sunday, until half-past two next morning, he had eaten nothing except the tea and toast he had from Mrs Jenkins on his arrival from Stirling. Yet he goes back at once to the Bridge of Allan as the only place where the food could reasonably be suspected to be the cause of his illness, possibly because *the symptoms had appeared before he had taken any other*. This is one horn of the dilemma—of course it clears the accused. The other horn of the dilemma is this—he may have purposely avoided either eating on the road or taking more than a very slight tea, expecting to have something from and with the accused. But if he had taken that, he would naturally have said to his landlady: “Yes, I have had something with a friend, yet nothing that could well have made me ill.” But no, he goes back at once to the Bridge of Allan. Thus, under this view, the surmise of his having dropt asleep and overslept himself accounts at once for his not having had what he had expected, and leaves the prosecutor in the impossibility of otherwise accounting for his direct reference to the Bridge of Allan. But the most important elucidation of all supplied by this obviously natural surmise of sleep remains to be noticed. It presents a solution of a difficulty started by Dr Christison, and a solution, strange to say, suggested by the Professor himself. Dr C. says he should think it very unlikely that a man should take arsenic at Bridge of Allan, walk (go by train) to Coatbridge, walk eight miles to Glasgow, reach Glasgow in good health and spirits (this disproved) and die of arsenic next morning.

Cases of protraction FOR FIVE HOURS have occurred in persons who had gone to sleep.

Probabilities that the deceased continued taking arsenic.

Before proceeding farther, let us see how many probabilities there are in support of the deceased indulging in arsenic as a drug. He himself mentioned three of its good qualities to his Dundee acquaintances—its effects on the lungs and chest—its being a remedy for weakness of the spine—and its being good for the complexion—a quality for which he, an undoubted fop, was not unlikely to use it, even had there been nothing else to recommend it. But a part of his landlady's evidence, I apprehend, bears strongly on this point. She tells us his diet was chiefly vegetable. This, whether the result of poverty or choice, must have rendered him more dependent on stimulants than he would otherwise have been. We all know that the Hindoos and other tribes, which do not eat animal food, use strong spices as stimulants. Have we not, then, some ground to believe that arsenic had become, as it is said, indeed, to be with all who have once begun to drug themselves with it, a necessity of his existence as a stimulant, particularly when he had feats of fatigue to undergo?

Scattered rays of evidence point to one definite conclusion.

Let us now, before we turn to the autopsy, collect all these scattered rays of evidence, and see what light they throw on the fact, naturally so mysterious and unaccountable to the simple mind of Mrs Jenkins, of the deceased going out well and returning only to die. For this purpose we need not go over all the circumstances and symptoms attending either the last and fatal or the preceding illnesses of the deceased. These are all minutely detailed in the printed trial. Well, then, let us suppose that those friends who gave evidence respecting him had met in his lodgings on the morning of his death. One would have said: "This is nothing new to me, either in its suddenness or its violence. He had those very symptoms one day in my house at Helensburgh, and I thought he would have died!" "Nor to me," another might have said, "for dining with me, one Christmas-day, he was suddenly seized with these very symptoms, and we thought he would have died!" "As little are they new to me," might have exclaimed a third, "for one evening, in his own lodgings, at tea, he was suddenly doubled up with pain, and I thought he would have died!" "Ay," a fourth might have said, "I knew him to be subject to diarrhœa; and about the middle of last month, immediately after Dr Thomson had paid him his last visit, on curing him of an inflammatory affection of the throat and breast, and of boils on his neck, he had a violent attack of cholera."

"Boils on his neck cured, and, forthwith, an attack of cholera!" Dr Stevens might have exclaimed—"Diffused poison there must have been beyond a doubt. Checked in seeking an escape by the boils, on these being stopt, its virulence would be turned inwards on the stomach and bowels. Depend on it, the very *serum* thrown into the intestines, by the violent action of serous diarrhœa, would be charged with poison, and would intensify that very action, and make bad worse by its reaction on the mucous membrane. It must have been copper, lead, or arsenic." "Oh!" might M. de Mean have then said, "he once expatiated to me a good half hour on arsenic, insisting that, when taken in very small doses, it could hurt no

body!" "True," another might have said, "five years ago he spoke much in the same strain to me at Dundee, telling me he had given it to horses, and leading me to understand that he took it himself." "And to me, too," might a third have said; "he extolled arsenic, and said *he took it regularly.*"

Now, Gentlemen, what would Dr Stevens, or any man possessed of a decent amount of common sense, have concluded was the true answer to the question how the deceased, though he went out apparently well, should have come in only, after a struggle of about eight hours, to die? He would assuredly have said that his body, on being opened, would be found saturated with arsenic—saturated probably to a degree that would cause universal amazement, seeing that if, even after the lapse of three short weeks, the human body so accommodates itself to the action of that virulent poison, that physicians who administer it must increase the dose in order to continuing the effect, what amount of such accommodation may we not expect from the self-drugging of five and probably many more years? And might he not rationally have expected that the very *serum*, or watery exudation from the intestines, which, under the action of cholera, rushes into them, would be found largely imbued with it?

Evidence of the autopsy.

Yes; and now read over all that Drs Penny and Christison discovered on opening the body, and say whether the result was not precisely what any man of ordinary shrewdness, but not under the blinding influence of an epidemic delusion, might and would have anticipated and foretold as the result—the necessary result of long years of self-drugging, and of that alone?

The autopsy or *post mortem* examination convinced all that there must have been a *recent large administration of arsenic*. Indeed, Dr Christison thought there must have been such after the arrival of the deceased in Glasgow. But if his last illness differed from the others only in the peculiarly unfavourable circumstances in which it attacked him, the better health he had enjoyed at the Bridge of Allan being far more than counter-balanced by the fatigue of a long walk, reaction from laudanum and five hours' exposure, no one certainly knows where, surely there is no necessity for such an assumption. Had he died under a previous attack, arsenic would doubtless have been found in his body, just because diffused throughout it; and if found in the liver, heart, and brain, much more surely in the tissues whence the *serum* directly flowed. A drunkard may surely die of cholera, and alcohol be found in *serum* exuded from his stomach and bowels, although he may not have been recently drinking; perhaps all the worse might be the attack from his not having recently taken spirits. Nay, although undigested food had been found with arsenic in it, even that would not prove any *large* recent administration. For the antiseptic powers of the drug would favour the continuance of such food in the stomach without putrefaction, and improved digestion and exercise would naturally knead and break up such food and viscous ropy matter, so as to bring the arsenic suspended in them into morbid action. That the deceased doctored or drugged himself, we may certainly infer from his being besought by the accused not to do so, in her letter of 3d December, 1855, and that arsenic (in the form, possibly, that he had had it administered to him previously in Edinburgh,) was one at least of the nostrums he used, there can be no doubt. We shall see the proofs of previous poisoning by the

accused dwindle down to nothing. To what but self-drugging, then, shall we attribute the proofs of remote action found in the ulcers in the duodenum? Does not the absence of colouring matter also point to the arsenic found in the stomach having come with the *serum* from the surrounding tissues, or at least to its having entered in another form from that of the arsenic of the shops? The quantity, to be sure, was surprising; but who shall limit the absorbent powers of the body under continuous drugging? No department of physiology seems more mysterious than the stomach and its functions. It puzzled Dr Abercrombie more and more the longer he lived. And in what is it more mysterious than in the prophylactic changes that organ undergoes when brought into contact with poison, when large doses cause spasms that at once repel the enemy, and give warning of his being there, while small continuous administration is met by a process of gradual accommodation, in which the assaulted party seems to capitulate on terms? The enemy once admitted, the body seems to become like bell metal, composed of heterogeneous particles, which, without necessarily breaking it, render it extremely fragile. Dr Christison admitted that the symptoms described to him "might have occurred from malignant cholera." Extreme thirst and other symptoms of *recent* arsenical administration were wanting. Does not common sense reconcile all this by the very simple hypothesis that the deceased died of malignant cholera, arising from predisposition, caused by *diffusion*, not *very recent administration* of arsenic, thus making arsenic the remote, rather than the immediate cause of death? To presume recent murderous administrations, superadded to previous diffusion by self-drugging, is preposterous.

Where is there any CORPUS DELICTI?

But what has become of *corpus delicti*? All this evidence was given in presence of the prosecutor. Much of it was furnished by himself. In the face of it all, nevertheless, he persisted in stating it as his own belief, and in using all the arts of a consummate sophist in trying to make it the belief of others, that the symptoms, under which the deceased died, were the result of as "cruel, premeditated, deliberate homicide as ever justly brought its perpetrator within the compass and penalty of the law!" And this because he, a man, has thought himself fully qualified to gauge the whole motives of a woman, and, having first placed her in a predicament very much of his own imagining, has then come to the monstrous and horrible conclusion that out of that predicament nothing could deliver her but (*risum teneatis?*) a cold-blooded and brutal murder!!! *Ne sutor ultra crepidam*—let the cobbler stick to his last. The prosecutor may rest assured that, though he has shown consummate skill in getting up a sophistical speech, and throwing dust in people's eyes, young women know much better how to get themselves out of such predicaments than he does.

Don't think, Gentlemen, I have forgotten the young lady's purchases of arsenic. They form an important part of the evidence *in her favour*. This by the admission of the prosecutor himself—or rather by the simple application of the rule he laid down for the guidance of the Jury. But first let us notice another of the countless absurdities of this pre-eminently absurd trial.

False inferences.

You will remember, Gentlemen, that the deceased had several attacks in

February, like that of which he died in March. Indeed, the symptoms were so identically the same, that common sense at once sees an enormous probability that they had all one cause, and that of very old standing. One must have occurred about the 13th of February, soon after Dr Thomson's last visit in curing the boils. The prosecutor does not impute that attack to the accused, for the very good reason that the deceased and she were then corresponding only by letter. He was attacked again on the 19th–20th, and that she is indicted for as arising from an attempt of hers on his life. As, however, it was only on the 21st that her first purchase of arsenic was made, here was an evident hitch which the prosecutor tries to get over by coolly assuming that she must have bought an ounce previous to the 21st at some shop unknown. This only causes another hitch; it tallies ill with the fact that her purchase of the 21st surprised her by its colour, indicating that it was the first time she had seen the arsenic of the shops. It causes yet another hitch, for it assumes that the accused had not only bought but *must have used* the whole of a previous 6d worth. In short, it entitles common sense to ask the prosecutor to account for four instead of three separate purchases of arsenic where one would have amply sufficed—that is, to explain how, in seeking the life of one man, from mere *gaiété du cœur*, she came to buy enough to kill five hundred? But alas! it was held to be a fact by the presiding Judges, it was accepted as a fact by the Jury, it was manifestly a fact that that illness of the 19th–20th, was one with which the accused had nothing to do! Never mind, says the prosecutor, as she bought arsenic on the 21st, she must at least have poisoned him on the night of the 22d–23d, being the second count of the indictment.

Gentlemen, common sense and common humanity stand aghast at such an inference. They do not dispute—they need not dispute what the counsel for the accused, I must say, weakened her case and made it suspicious by disputing—that the deceased did that night steal out of the house and see the accused. But was there ever a more preposterous idea than that the *relapse thus inevitably brought on* was caused by her poisoning him? No doubt he was very ill next morning, and had to send for the doctor. But what else could he expect? Was he not very ill the previous Thursday; ill, also, though not so ill, on Saturday; and was he not keeping the house on Sunday because of his being so unwell? Was it not the consciousness of the risk of a relapse that made him steal out without informing either Mrs Jenkins or M. Thuau? And did he not tell Dr Thomson that his illness did not date from that morning—that he had been ill for some days? obviously implying that it was a mere relapse, though of course he took care to say nothing of its being caused by his own folly in exposing himself to the cold night air of a Glasgow February, while his stomach and bowels were in an extremely irritable state. Nor is this mere surmise. The conscientious exercise of our reasoning faculties *compels us* to conclude that she had nothing to do with that illness. For we must reason from the known to the unknown; and as it is a known fact that she had nothing to do with the illnesses preceding February 21st, when she first bought arsenic, the symptoms being identically the same, *we are compelled to conclude* that as little had she to do in causing the relapse of the 23d February. But no, thinks the prosecutor, from *the surmise* of murder we may logically argue against *the fact* that the case of the 13th

was one of arsenical poison, and *the other fact* that that of the 19th-20th was not caused by the accused. No, thinks the presiding Judge, we may lawfully employ *the surmise of murder* against *quite another fact*, and positively deny that the illness of 19th-20th was one of poison at all! And it is in the nineteenth century, and in Scotland, that we find this preposterous process of coolly overturning plain facts by monstrous and incredible surmises—thanks to the eagerness of the Crown officers in hunting down a poor young woman, who assuredly had suffered quite enough already from the weakness and brutality of the other sex, as well as from the rancorous malignity of her own. Talk of horrors, Gentlemen! if this be not horrible, I know not what can be so!

Purchases of arsenic by the accused.

The prosecutor scouts the idea of the accused having really bought the arsenic for the purpose she alleged in her declaration. This is passing strange. Her declaration is dated 31st March. We find in it these words: "I have bought arsenic on various occasions; I used it all as a cosmetic, and applied it to my face, neck, and arms, diluted with water." Gentlemen, here we have palpable evidence of an association, in the declarant's mind, of arsenic with certain cosmetic qualities. I care not how or when this association originated, as long as the prosecutor does not even pretend to prove that it positively originated in her mind later than her first purchase on the 21st of the preceding February. All we need look at is this palpably true fact, that such an association of ideas did exist in her mind on the 31st March last, and was employed by her as a defence against what she thought an atrocious slander. Well, then, if she used it, right or wrong, for that specific purpose on the 31st of March, is there anything preposterous in maintaining that this same association of ideas may naturally enough have been turned by her six weeks before to a different use, that, namely, of an experiment on her face, neck, and arms? Surely if it served one purpose on the one date, it may have served the other purpose on the other. Suppose it had been not a mental association of two things in the relation of means and end—arsenic as a means, and the purification of the skin as an end—but something material, say a bottle of ink; suppose, farther, that she had used that ink in writing out her declaration—I ask you what would you think of the saneness of that man's understanding who should insist that it was preposterous to suppose that that ink could have been in the declarant's possession six weeks before, or, being in her possession, could have been employed by her for a purpose so natural as that of an experiment founded on the previous perception of a relation between two things as a means and an end, say for the blackening of a pair of gloves?

You will observe, Gentlemen, that this reasoning is entirely independent of the source whence this notion of arsenic as being a good lotion originated, or of its being or not a mere fancy. Enough—its existence in the mind of the accused at the end of March is a fact. To deny that it can have existed there six weeks before, and being there may have led to an experiment, is what is truly preposterous, particularly so very natural an experiment as that to which we have the evidence of one of the declarant's confidential letters that it was applied.

But the prosecutor, nothing abashed, will of course take new ground,

and insist that the experiment once made, never could have been repeated, as the accused states it was repeated. He will have it that it was at once dangerous and useless.

Arsenic a good detergent.

Gentlemen, the incredulousness with which the idea of arsenic being employed as a cosmetic for purifying, bleaching, and softening the skin, is marvellous. It is a matter of fact that it bleaches tallow, and wax, and wool. And the slightest consideration of its mechanical and chemical nature points to its being likely to bleach the human skin, where exposed, as in Glasgow and London, to a smoky moist atmosphere, from which it takes on a dingy colouring that soap does not easily remove. By its mild causticity, arsenic dissolves that dingy coating of smoke—by the roughness of its crystals it acts like a sand-ball, and rubs it off when dissolved—and by its capability of combining with animal oil, it, like soda in the same combination, has a softening effect. But, over and above all these qualities, it has, as I was lately assured by an intelligent farmer, a positively bleaching power, giving to the fleeces to which it is applied a dazzling whiteness. Its highly dangerous qualities, when taken internally, have most properly prevented it from becoming a common detergent for the skin. But, nevertheless, it so certainly possesses those qualities, that nothing was less surprising than the letter from a lady in London, which appeared after the trial, in the *Edinburgh Advertiser*, and which stated that the writer herself used it as a detergent, knew that others used it as such, and was surprised that any one should have wondered at its being so used.

Now, it is very true, that until the panel had herself learned its detergent and cosmetic qualities, by using it once herself, we cannot allege all this as a reason for her first purchase, but that we may rationally do so in regard to her second and third purchases, there cannot be a doubt. And, even as regards the first purchase, there is much to be said in favour of her plea over and above the palpable fact, that the idea certainly existed in her mind. She may have caught the idea of using it externally from some chance remark she may have heard in London, and erroneously attributed to Miss Guibilei; or she may have inferred its bleaching qualities from its effect on candles, and forgot how the inference arose; or, most natural of all, in the lapse of years she may have remembered only its being used as a cosmetic for improving the complexion, and quite forgot, that, unlike all other cosmetics, it was used not externally, but, poison though it be, internally. The circumstances that attended her purchases, however, present such a complete refutation of her having made them with any evil intention, when tested by the very rule laid down to the Jury by the prosecutor himself, that one can hardly conceive a droller predicament than he contrives to have placed himself in as regards this department of his own case. You must have perceived that he is bound by a principle, gravely enunciated by himself, to hold the entire evidence relating to the purchases of arsenic by the accused as irrefragable proofs of her perfect innocence. What he lays down as to the administration of poison, by manifest parity of reason, applies equally to the procuring of poison: *If the deed were truly done with an evil intention, it would be done secretly.*

Total absence of secrecy.

And, now, let us see whether in those purchases there was the secrecy that the prosecutor lays down as the infallible test of an evil intention.

Feb. 21st, the accused buys $1\frac{1}{2}$ oz. of arsenic at the family druggist's, and not only procures it on her own signature, but has it set down to her father's account. The prosecutor, surely, needed but apply his own principle in order to have been warned to sist proceedings on this discovery. Further, having had to give a reason for the purchase, although she had a choice of pretexts, and might have given one which, while it could stand investigation, might incur ridicule, she preferred giving one which, while it saved her from ridicule, could not stand investigation, and yet was sure to be investigated the moment her father's eye fell on that item in the account. But if she had murderous intentions in making the purchase, it must have been investigation, not ridicule, that she feared; we may therefore infallibly conclude that she made it without any murderous intention.

March 6th, she buys another sixpence worth of arsenic. Her buying it a second time is a proof of the absence of any feeling in her mind that it could possibly bring her into trouble. Such a feeling would certainly have made her avoid all need for a second purchase, by taking good care of the first, which was enough for a hundred of the small tentative doses with which she is surmised to have commenced her deadly operations. Yet again she buys it in the most open manner, at another shop, and a shop in one of the most frequented streets of Glasgow—a shop, too, where she was known. She buys it, moreover, in company with a friend, and again, with a choice of pretexts, she prefers that which, while it saved her from being laughed at by the shop lads and her friend, not only could not stand investigation, but which that friend, the first time she called at her father's house, might discover to be false; and she does not give as a reason for the purchase that which the young woman at her side might have corroborated as true. Here the conclusion of innocence of intention becomes irresistible; for how eagerly would a murderess have availed herself of the opportunity thus presented of quashing suspicion at the cost of a little bantering about the care she took of her complexion?

March 18th, after having bought enough of arsenic to poison more than a hundred men, and being told as much at the druggist's, she buys a third parcel, again at the family druggist's, with the same perfect openness; and, once more, strangely prefers to a pretext which could not stand questioning—one that could not stand a moment's questioning; thus proving *ad abundantiam* that she never dreamt of anything suspicious being ever attached to what she was doing. All this openness, too, we find in a young woman, who, in an unfortunate love affair, had for more than a year been practising the closest secrecy.

"We cannot say," says Bishop Butler, "that a thing is probably true upon one very slight presumption of it, because—there may be some against it." And again, that "the slightest possible presumption is of the nature of a probability, appears from hence that such low presumption, often repeated, will amount to *moral certainty*."

Now, granting what, after all we have seen, Gentlemen, is far more than can fairly be granted, that the prosecutor can allege a presumption of evil intention in these purchases of arsenic, let us see how often the presumption to the contrary is repeated in the above evidence, which, you will observe,

is all adduced by the prosecutor himself; and whether the frequency of repetition be not such as to amount to moral certainty, if such moral certainty, can ever, as Bishop Butler clearly assumes, be reached at all. The cumulative force of the proofs of innocent intention, on the prosecutor's own principle, that guilt and secrecy invariably go together, you will see, is overwhelming. It may be stated thus: Buying openly once, + buying openly twice, + buying openly thrice, + buying at the family druggist's once, + ditto twice, + buying at another shop, + buying in one of the most public thoroughfares of Glasgow, + buying at a shop where she was known, and her purchase was likely to be the more marked from its not being the family druggist's, + putting it down to her father's account, + using the wrong pretext for a person dreading investigation once, + ditto twice, + ditto thrice, + buying in company with a friend, + buying unnecessarily once, + ditto twice, + buying in a preposterously excessive quantity. Sixteen presumptions; all these sixteen presumptions, too, strictly limited to the subject-matter of the purchases, and independent of the other enormous presumptions against her ever for one moment having had such an atrocious idea as that of murder in her head.

Would Bishop Butler have hesitated for a moment in pronouncing that if ever the multiplication of presumptions could amount to moral certainty, such moral certainty is here obtained? And mark this, Gentlemen, if it be morally certain that the accused bought these three parcels without dreaming of applying them to any more guilty purpose than that for which their chemical and mechanical qualities so well adapted them, it follows of necessity that she never poisoned the deceased with arsenic, seeing that, had she had any such purpose in view, arsenic is just the very last thing she would have bought to use as a cosmetic.

I know not, Gentlemen, whether I need notice one part of the evidence against the accused which has raised both indignation and laughter in various parts of Scotland against the medical witnesses. I refer to that where washing the face and arms with warm water, into which an ounce of arsenic has been thrown—that is, with a very weak solution of arsenic—was represented as a highly dangerous experiment. Gentlemen, a day or two after that astounding evidence was given, I happened to meet a very able practitioner in one of our great sheep districts, who, on my alluding to it, threw up his arms in perfect amazement: "Why," says he, "for ten years, I have known shepherds have their bare arms up to the elbows in the strongest solutions of arsenic, from morning to night, without the slightest harm having ever arisen from it except in one solitary instance, where the man had erysipelas in his arm!" And here I might mention other very relevant facts of recent occurrence in the same district; proving how very strong the solutions which the shepherds safely use must be, and how utterly incredible, *in the absence of all facts to the contrary*, the possibility of the body of the deceased having become saturated with arsenic any otherwise than by simply drugging himself with it in extremely minute doses.

You remember, Gentlemen, the whole world stood agape with wonder at the discovery of such saturation, and men's excited imaginations could see nothing in it but murder, or suicide at the least; whereas, had they simply allowed common sense and common humanity to guide their judgments, the whole mystery would have ceased, by assuming that the deceased had done what he said he did, *taken arsenic regularly*. To insist that he did not do it,

because not seen or known to do it lately, is silly in the extreme. That he took it in 1852, is certain—yet it was by the merest accidents that this came to be known—an accidental conversation about a journey and horses, and an accidental conversation about a white powder found in a wood. And because no such accidental revelations beyond the half-hour's talk with M. de Mean occurred after his coming to Glasgow, therefore we must presume that he had abandoned a habit that had probably become a necessity of his existence! Why, have we not M. Thuau's evidence, that he was in the habit of taking laudanum? and yet none but he, not even his landlady, knew this. But so it is; let the mind once become unsettled by a tale of horrors, and human nature, even in the otherwise well-informed and sensible, shows all the weakness of the German peasants, whose dread of the comet led them to abandon the tillage of their lands. One would think *Credo quia impossibile* was their creed. Had his body been found saturated with alcohol instead of arsenic, not the slightest consequence would have been attached to no bottle of wine or spirits being found in his lodgings. We may not unreasonably surmise that he suspected arsenic at last as a cause of those illnesses, and thrown away all he had.

Judicial murder at Lancaster.

You have heard, Gentlemen, I dare say, of a judicial murder once committed in Lancashire in the case of a poor servant girl, who was hanged for cutting her mistress's throat because she was the only person that resided with the old lady, and there was not the slightest trace of any thief or burglar having entered the house. The real murderer afterwards confessed to the deed, and explained how very simply he had accomplished it. The street was narrow—a mere lane—he had found his way into an empty house opposite the old lady's, had laid a ladder across from an open window to that of her bed-room window sill, had raised the sash, gone in, committed the murder, and slipt out again without leaving the slightest trace of his presence. The jury, pretending to omniscience, pronounced that the old lady could not possibly have been murdered by any one but her maid, and rather than admit their possible ignorance, themselves committed a far more shocking murder. What the Lancaster jury did, the prosecutor in the case before us was so deluded as to call upon an Edinburgh jury to do, and so far as infamy went, they actually did by their verdict of "not proven." And yet how much less excusable was the surmise of guilt in the latter case than in the former? So far from there being no indication of the entrance of a deadly poison into the body of the deceased, except in the way of recent murderous administrations, he himself had told the way to more than one witness who deponed to that effect in court; and, moreover, common sense sees, from what was revealed by the *post mortem* examination, that the arsenic found in the body could no more have entered there in the way alleged, than the murderer in the other instance could have entered the lady's chamber by the keyhole of the door.

Swallowing so much at once impossible.

The mere swallowing, indeed, at one time of so large an amount of arsenic as the surmise of murder assumes, has appeared to nearly the whole medical world beyond the influence of local prepossession to be

impossible, unless the accused had employed porters to hold the deceased and force it down his throat. No doubt pains have been taken by persons who have had the folly to see no difficulty but this in the way of conviction of guilt, to prove by actual experiment that a very large quantity of arsenic may by long boiling be absorbed by thick cocoa. But however desirable it may be that such amiable efforts should succeed, their success as a chemical experiment only raises fresh obstacles to their success as a proof of murder. For where is the accused likely to have learnt this lesson in chemistry, that long continuous boiling should do more for arsenic than for other things? And how possibly should she have found it necessary? Oh, we shall be told, because she had made previous attempts without full success! But if she then gave large doses, how happened they not to kill—if small, how happened she to pass *per saltum* to such a tremendous and scientifically managed dose as the last must have been? And must not arsenic, *thus dissolved*, have disappeared along with the cocoa—not been left behind in the *serum*? All this, too, be it observed, avails nothing unless we throw the rules of inductive science to the winds in reasoning from the previous illnesses of the deceased. *All* these illnesses, without a single exception, may, by the most rigorous application of these rules, be accounted for by the hypothesis of a predisposition caused by the presence of a diffused poison in his body, gradually absorbed in the course of long-continued drugging, and of the certainty of that drugging we have ample evidence in the depositions of three witnesses. But when we come to employ them as proofs of tentative poisoning by the accused, we are compelled to take such of these illnesses only as suit our purpose, leaving out others which, from the identity of symptoms, ought manifestly to be included. Common sense perceives that the hypothesis of murder would suit the whole of the phenomena to be explained, only in the case of the deceased and the accused having lived together for years, and of her having thus had the opportunity, say, of sweetening his tea or coffee every morning with sugar adulterated with a slight quantity of arsenic, which she did not use herself.

More incredibilities.

To return from this digression, we find the prosecutor compelled by his own dictum to turn all the evidence relating to the purchases of arsenic, from the accused as a murderess, against himself as a false accuser. But we have not half exhausted the incredibilities which his surmise compels him to swallow. Let us advert to a few more.

At page 31 of the corrected report we find Mrs Jenkins give the following account of the effects of one of the alleged poisonings of the deceased by the accused, as taken from his own lips:—"He said, 'On the road coming home, I was seized with a violent pain in my stomach and bowels, and when I was taking off my clothes I lay down on the carpet. I thought I would have died, and no human eye would have seen me. I was not able to ring the bell.'" She says, also, that he vomited a great deal of a greenish substance about the thickness of gruel. This was the first, or at least one of the first cases of alleged poisoning by the accused. He had given a like account to Kennedy. See page 84. And was once ill in her presence.

Gentlemen, if we believe that the deceased had been doing regularly what he had once said he did do regularly, with the ignorance and fear-

lessness sworn to by three independent witnesses, and for the useful purposes sworn to by two of them, there is nothing whatever in this account to cause wonder or a breath of suspicion against any living mortal. That arsenic should never be taken except under careful medical superintendence, is notorious. That the diffusion of such a poison through the body makes health and life precarious to the last degree, by predisposing to frightful gastric derangements, is no less notorious. Why then wonder—above all, why suspect?

But what does the surmise of guilt compel us to believe? Neither more nor less than this monstrous incredibility, that the accused, to whom the deceased, always so ready to talk of his illnesses, must have described this attack as he had done to his landlady, at a time when she had the strongest possible motives to conceal her meetings with him, and to dissociate herself from him to the utmost in the eyes of her parents and the world, and, above all, of Mr Minnoch—with this warning full in view, actually risked, more than once afterwards, having the deceased found at midnight, in her own room, or in some other part of her father's house, or in the street at the very foot of the stair in which Mr Minnoch resided, "seized with a violent pain in his bowels and stomach, and lying down unable to rise on the carpet," or pavement as it might be, in the agonies of a frightful death, caused, as would clearly come out, by her diabolical agency!

The man who can swallow this, Gentlemen, has placed himself far beyond the reach of your logic and mine. He is manifestly under the influence of a delusion.

Take another, for they are "thick as blackberries" as well as "gross as a mountain, open, huge, palpable." In the letters which the prosecutor has so scandalously published, is one which no man can read without being profoundly touched with it—that in which she expresses her horror at the thought of any eyes but those for which her letters were solely intended falling upon them. Well, then, what does the prosecutor ask us to believe? Why, that the author of that letter was engaged for weeks in a nefarious manœuvring to murder the deceased, while there is not a vestige of any manœuvring to secure her letters from being seen by all and everybody at his death—nay, being pounced upon, as they were pounced upon, by a parcel of prying, suspicious busy-bodies, for the purpose of accounting for his illness and death. Is it not manifest that a scheme for the securing of her letters must have gone hand in hand, or, rather, must have preceded that for accomplishing his death? Yet, Gentlemen, we cannot discover the slightest trace of any such manœuvring.

Once more, and to this I have already alluded. Common sense and common humanity teach us, that when a woman comes to the conviction, that by an early girlish and foolishly romantic attachment, to say the least, she has brought the object of that attachment into such perplexity and vexation as the deceased evidently made no secret of to the accused, and has no other choice before her but that of either being his mistress or breaking with him altogether, she must be either more or less than woman not to feel an intense anxiety about his health, should she adopt the alternative of separation, and find, *contrary to expectation*, that this nowise relieves him. Such was the exact position of the accused. Turn to dates, and they prove it. On January 23d, she writes:—"Emile, what would I not give at this moment to be your fond wife?—I do vex and annoy you, but Oh,

sweet love, I do fondly, truly, love you with my soul, to be your wife, your own sweet wife. I never felt so unhappy as I have done for some time past. I would do anything to keep sad thoughts from my mind. But in whatever place, some things make me feel sad. A dark spot is in the future. What can it be? O God, keep it from us. O may we be happy—dear darling, pray for our happiness. I weep now, Emile, to think of our fate. If we could only get married, and all would be well. But, alas! alas! I see no chance, no chance of happiness for me. I must speak with you. Yes, I must again be pressed to your loving bosom—be kissed by you, my only love, my dearest darling husband. Why were we fated to be so unhappy? Why were we made to be kept separate? My heart is too full to write more. Oh, pardon, forgive me!”

Who does not see in this the outpourings of her inmost soul in its struggles between filial love and awe, conscience and prudence—nay, a true regard for her lover on the one hand, and a fond first love on the other? Do we not seem to see her parents frowning on her for rejecting such a lover as Minnoch, and their anger at her first attachment, passing into perfect indignation at her selfishly preferring it to making father, mother, Minnoch, and a whole circle of friends, happy by accepting another? What a fearful struggle for a warm, affectionate, unsophisticated young heart! What a sacrifice is she making in writing thus to the poor lachrymose tyrannical clerk, whose manœuvres had brought her into so disrespectable and even criminal a position! When exactly, or how, this letter was answered, we know not. All we know is, that a subsequent letter, addressed by her to the deceased, was insolently returned—whence we may very safely conclude that her pathetic lamentations of the 23d January *were not forgiven*—that they were interpreted as insulting allusions to his poverty and inability to receive her at once as his avowed wife. Stung to the quick with such a scandalous return, she yields to the wishes of her parents, and accepts Minnoch on the 28th, thus foreclosing herself from any renewal of intercourse with the deceased. But lo, the insolent first lover evidently repented of his hasty rejection of the letter that had followed that of the 23d. It almost looks as if he had set a trap for her—as if he had said, I will send back one of her letters; she upon that will accept Minnoch, and then I shall have my revenge. Any how, the fact is certain, that after the rejection of her letter, the deceased must have written an apologetic one, for how else can we account for her writing to him No. 101, which she would never have done with no security against its being thrown back in her face? But that apology came too late. Minnoch had been accepted. What the nature of the apology was we know not, but as we see plainly an extreme anxiety shown in the answer to it to avoid the slightest allusion to anything that might wound his pride, carried even to the extent of confessing to a coolness in her letters, which that of 23d January at least completely belies, we may be assured that he had been stung to the quick by expressions of distress and anxiety that seemed to reflect on the policy he had pursued as anything short of the highest wisdom and purest integrity. On herself and herself alone she takes the whole blame of this third separation.

Then comes his appalling threat, and the absolute necessity for temporising, unless indeed she could show the moral weakness of breaking with Minnoch, and returning to the degradation and woe she had so power-

fully described in her letter of January 23d. But mark, as I said before, the excitable temperament and failing health of the man she had to deal with. These both common sense and common humanity lead us to believe must have become a constant and most natural subject of anxiety to her. Give this interpretation to her letters, and they present an aspect of the most perfect verisimilitude. Interpret them as the prosecutor interprets them, and anything more grotesquely unnatural it is impossible to conceive. Take the following specimens and add the after-thought, the *arrière pensée*, as the French say, of murder, as required to fill up the meaning in every one of them. Nothing could possibly be more unlike truth than perfidy assuming such a guise, yet *likeness to truth* is the sole standard and test of presumptive evidence.

"I was glad to see you looking so well yesterday."—Page 152.

"I am sorry to hear you are ill. I hope to God you will soon be better—take care of yourself—do not go to the office this week—just stay at home till Monday. Sweet love, it will please me to hear you are well."—Page 135.

"I do hope you are better—keep well, and take care of yourself."—Page 153.

"I hope by this time you are quite well and able to be out. I saw you at your window, but I could not tell how you looked—well, I hope—I hope you are well."—Page 154.

Gentlemen, by way of parenthesis, let me ask you to contemplate the verisimilitude of this picture—the author of the letter of 23d January going out of her way to have a look at the window where she might see the man whose murder she was deliberately planning and perpetrating! Were you to find this in a play or a novel, would you not exclaim that the author, so far from imitating, outraged nature?

"If you would take my advice, you would go to the south of England for ten days; it would do you much good. In fact, sweet pet, it would make you feel quite well. Do try and do this. You will please me by getting strong and well again."—Page 155.

Gentlemen, if the accused were trying to bring the deceased back to his old rational conviction, that their attachment was hopeless, and suspected, as she very reasonably might, that she might be thwarted in this by the nervous and excited state into which he had fallen, she could not have done better than advise him to change the scene for ten days. But how can we possibly reconcile her plans of murder with such advice?

"My sweet love, I love you, and only wish you were better."—Page 155.

"I hope, sweet one, it (the Bridge of Allan) may make you well and strong again, and that you will not again be ill all the summer. You must try and keep well for my sake; will you, my own dear little Emile?"—Page 159.

Gentlemen, the accused, according to the prosecutor, so far from expressing here a most natural anxiety that the deceased should not give her the bitter reflection that her conduct was killing him, was only anxious lest his neglect of his health should deprive her of the personal satisfaction of killing him! Is that like truth?

"I hope you are well. I think if you could wait a little it (the Bridge of Allan) would do you more good—but you know best when you could get away."—Page 159.

Gentlemen, advise him to put off going to the Bridge of Allan till

warmer weather, and refer to this depending on the time he might get away, and she all the while settling in her own mind that he was then to be dead!!!

Next comes her short letter to Mr Minnoch, either written with the most studied reserve, or dictated by her mother. But no sooner has she written it than she seems haunted with the idea that, after all, her resolution to abide by the decision she had been nerved to take, only by a now apparently atoned for insult, may be killing her first lover. And under this feeling she writes the last little note which was "to explain all," and which opens with the words:—

"Why, my beloved, did you not come to me? Oh, beloved, are you ill?"

Again, Gentlemen, I ask you, can we possibly, in an impartial review of this evidence, instead of interpreting these letters, as common sense and common humanity call on us to interpret them, by the sole hypothesis that explains her ceasing to call the deceased her husband, and herself his wife—the hypothesis of her having resolved, from the purest motives of filial love, true regard for her own as well as her first lover's morals and happiness, and her own peace of mind and conscience, to marry the man whom Providence seemed to press on her, not the man of her own foolish self-willed attachment—can we, I say, with the slightest show of reason, adopt the hypothesis that would turn all these otherwise most natural expressions of concern about the health of the deceased, into proofs of such superfluous insensate devilry as runs counter to the whole experience of mankind from the Creation to this day? Crimes there have been in abundance, but when did crime ever wear such a guise as this? No, it is just one more of the monstrous absurdities which the surmise of murder compels us to admit, and which are thrust on our belief without the smallest necessity, seeing that that surmise does nowise explain the difficulties presented by the death of the deceased, but greatly multiplies them—that his illness manifestly began before he reached Glasgow, and that there is no difficulty whatever in accounting for his death by a totally different hypothesis.

Conduct of the accused to Mr Minnoch.

Immense advantage has been taken of the apparent perfidy of the accused in accepting Mr Minnoch's hand without, first, informing him of her antecedents, and, afterwards, intimating that an unlooked-for obstacle had arisen in the revived pretensions of her first lover. This forms part of that attack on her general character by which the prosecutor sought to prevent his case from breaking down from want of evidence, and to nerve the minds of the jury for the awful verdict of guilty, by the reflection that though possibly guiltless of murder, she was otherwise unfit to live. There is something, Gentlemen, revolting beyond measure in this barbarous method of compassing the destruction of the life and character of a fellow-creature. There are certain specific charges of intent to murder, and of murder, which the prosecutor was bound to prove. But not one of his numerous witnesses, not one of his still more numerous private letters, gave the slightest proof of her having ever had any unkind intention towards the deceased, or of her mixing and administering poison to him. Nay, her declaration, that for three weeks before his death he and she

never met, remains to this hour unshaken by a tittle of evidence to the contrary. In this desperate position, and resolved to abet, not to dispel a delusion, he represents the accused as in a predicament common, as her counsel well insisted, to multitudes to whom none dreams of imputing murderous intentions—that of a person to whom the death of another would be a material advantage. But here he was confronted by the formidable necessity of proving that her marrying the man to whom her singularly cold letter of March is addressed, more than counterbalanced in her mind the overshadowing of her future life with the horrible consciousness of having committed a shocking murder, without her having so much as taken a single step to prevent her tell-tale letters passing into the hands of fifty prying and suspicious busy-bodies on her accomplishing her purpose. Hence he had to make the destruction of her moral character precede, not follow, her being convicted of murder, while, nevertheless, the surmise of her being a murderess was assumed throughout as indubitably certain, in order to aid this atrocious method of getting her convicted. The charges in the indictment the accused and her counsel knew and were prepared, as they best might, to meet. But how, Gentlemen, could they meet charges not in the indictment at all? Nay, they are such charges as she, a woman and a daughter, might find it impossible to meet. Her defence might very possibly lie in inculcating her parents, and revealing family scenes which she would rather die than reveal. Or, instead of maintaining that absolute silence with regard to the deceased which so strikingly marked her defence, she might have found her sole defence in accusing him when no longer able to speak for himself. Who knows what means may not have been used to influence her conduct by parents whose affection may have taken the too frequent course of imperative command and of threats of malediction and desertion in case of disobedience? Who knows at what cost of self-sacrifice her silence with respect to the deceased may have been maintained?

Besides, into what a maze of casuistry does such a perversion of justice lead us? God is no discerner of persons. In the eighth chapter of St John's Gospel we have clear enough proof of that. In the Sermon on the Mount, and elsewhere, we are told that in all sin the heart is the grand and true offender. Shall we hold, then, that every lover's suit should begin with his introducing the woman whose hand he seeks in wedlock, not only to a knowledge of all his past actual sins, but to those "chambers of imagery," those defilements of the heart, which such a rigorous application of principle might compel him to exhibit? To what a frightful ordeal would this subject the purest of the other sex! How effectually would it dissipate the charms of virtuous courtship! This strange confidence must, of course, be reciprocated before the other party accepts an offer of marriage, and thus what a frightful source of moral pollution should we find opened up in marriage itself! Ante-nuptial purity no doubt ought to be found in all. It gives a charm to married life that nothing else can give. But carry out the principle on which you here condemn the accused to its legitimate extent, and you make marriage impossible, except amongst persons of spotless virtue or of the grossest vice. Better, surely, that both the wooer and the wooed should be left to their own powers of moral discernment, or the counsel of parents and friends. Society would be in a frightful state indeed if all modesty must be destroyed where it can

least be dispensed with, if marriage must be forbidden where most necessary, and if no woman dare reject the suit of an admirer but at the risk of having her conduct ascribed to her reluctance to make revolting disclosures. Mr Minnoch had ample opportunity of knowing the accused. Their acquaintance was not of yesterday. They seem both to have indulged in the gaieties of Glasgow, and she plainly tells him, in her note from the Bridge of Allan, that the life they were to lead together was *to be a new life*, intimating in pretty plain terms that both had sins and faults of youth to be mourned over, departed from, and forgiven. The prosecutor tells us that in persisting in his suit the deceased merely wanted his wife. That surely goes far to deprive their intercourse in summer 1856 of the criminal aspect he elsewhere ascribes to it. But supposing that in the winter following her eye had fallen on the Rev. Thomas Scott's comment on St John's Gospel, chap. iv. 16-18, where she would have found these words: "This shows that a recognition before witnesses, and duly authenticated, is necessary to marriage, and distinguishes it," etc., is it possible that such a clear statement must not have given fresh force to that reluctance of conscience which we see all along embittering her life, and fresh intensity to the conviction that an attachment which had so ensnared her never could prosper? Common sense and common humanity teach us to give the accused as well as the deceased the benefit of any mitigation of the charge of criminality arising from their conduct in summer 1856, founded on the plea of a virtual marriage; and at the same time to give the accused the benefit of a change of view, which, although denounced by the prosecutor as perfidious, is clearly sanctioned by so justly esteemed a commentator. There is not a parent in Scotland who may not well be horrified at the principle laid down by the prosecutor as the very basis of his defence of the deceased, namely, that a man of eight-and-twenty, who is opposed by the parents of a girl of eighteen in seeking her hand in marriage, actually strengthens his position by taking advantage of her being alone in the country, stupefying her, whether by drugs or not we know not, and seducing her!

And here I must say, Gentlemen, that while the prosecutor has made a most successful use of those letters of the accused, which neither he nor any one had a right to touch, for the purpose of fortifying a charge of perfidy and murder by a general charge of depravity, that general charge of depravity is itself indebted for any belief it has obtained, to the antecedent belief that the accused was a perfidious murderess. We are not called to approve or defend those letters. We are not authorised even to look at them. Since, however, a scandalous publicity has been given to them, this at least we may say: they are not the letters of an adulteress, or of a woman of many lovers, or of a woman who sins without many a struggle between a delusion on the one hand and conscience on the other. Even while entangled in the webs of a most seductive sophistry, spread for her by a man nearly ten years her senior, and enjoying the confidence not only of respectable persons of his own sex, but of ladies of high character for virtue—even while encouraged by the mischievous intermeddling of one of the latter, to break a virtuous and wise resolution, and to return to an attachment which her parents most properly disapproved, neither common sense nor common humanity sees in her the frightful depravity that the prosecutor ascribes to her. Nowhere do we find her scoffing at religion or morality;

nowhere is marriage spoken of but with fervent respect; nowhere, if we except the mischievous lesson she had been taught by a lady much her senior, that the interference of parents was not to be regarded in affairs of the heart, do we find parental authority despised. Far from this, we see her expressing a reverential awe for her father, and a touching affection for her mother. Least of all can we discover the slightest indication of a murderous disposition, whether in the phase of a cold calculating selfishness, or in that of fierce hatred and revenge. We see, in short, a woman of the true primæval type, loving a man, and devoted to him, as Eve must have loved and been devoted to Adam when they were the only couple on the earth. Such women, it is needless to say, are not formed for general popularity. There is far too much concentration of their affections for that. They are indifferent to the world at large; and it were well if they met only with indifference in return. One part of the male sex views them with wonder and admiration; another with wonder and dislike. From their own sex they need look for nothing but suspicion and hearty dislike. Vice of all kinds, and in all circumstances, is to be reprobated; but if whatever is vicious in these superabundantly warm letters, which were never meant to pass beyond the deceased, is to be regarded as justifying a surmise of cold-blooded perfidy and murder, what shall we say of the mischievous officiousness which has led to such a frightful diffusion of the moral poison they contain? If such vice necessarily indicates utter depravity, what shall we say of a late eminent judge and peer, who, in a correspondence to which he gave the widest publicity, with a well-known divine of the Church of England, gave his most emphatic sanction to the scandal of which that divine complained to him as leader of the Northern circuit?—Intense affection, Gentlemen, naturally begets unbounded confidence. Bacon nowhere shows more knowledge of human nature than where he says, that it is better to speak to a statue than keep our griefs pent up within our own breasts. But love, also, is impatient of such restraint. This young woman had but one confidant, and that was one to whom her opportunities of speaking were rare and brief. Thus she naturally disburthened herself of her thoughts to him in writing, just as they rose out of that evil fountain of the heart, with which we are all too well acquainted, although the evil is not in all cases the same. One thing the prosecutor must allow: the deceased had read all those letters; he thoroughly knew their author. Yet the prosecutor holds that he was an honourable man. But what excellences must he not have seen counterbalancing her greatest faults, when, after an intimacy of several years, the very thought of parting with her made him wish he was six feet under ground. Minnoch, too, must surely have seen inestimable qualities in a young woman whom he so long and so assiduously courted. Is it for the prosecutor to step forward and insist that he knew her better than either, and that the faults of her letters, so far from being relieved by brighter qualities, were overshadowed and eclipsed by the darker horrors of her heart? Strange fate—for the admired and courted by two such lovers to be discovered by the intuitive glance of the prosecutor to be an incarnate fiend; to be hurried by him as a foul murderess from the gaieties of Glasgow, the warm affections of home, and the ardent love of two such suitors, to the solitude of a prison as preparatory to the horrors of the condemned cell! Alas! what if the two lovers were the better judges of character after all, and the perfidy alleged no more than an honest and virtuous endeavour to reconcile the opposing claims of affection and duty?

But let me repeat, Gentlemen, these letters neither you nor I are entitled to read. To us, at least, they are utterly unnecessary as aids to the discovery of the true cause of death in the deceased. And if useless for that purpose, what possible right have we to read and criticise them, however widely they have been exposed by those who had no right thus to expose them? It is here, Gentlemen, that I feel it impossible not to blush for my sex and my country when I see the indecent haste with which these private and privileged documents were pounced upon and converted to the purpose of slander. While the great enemy of God and man is called in Scripture a murderer and a liar, let us not forget that he is most emphatically called *δίαβόλος*, that is, false accuser; and that thus we may not unwarrantably presume that, in the eye of unerring justice, nothing is more morally revolting than the detestable spirit that eagerly entertains abominable suspicions and false surmises. Here, indeed, we have the grand origin of that infinite scandal which the trial has produced. *Hac fonte derivata clades in urbes populosque fluxit.* Had a higher morality presided at the commencement of these proceedings, how much irreparable public mischief and private wrong might have been saved? Whatever evil may stain these letters, has, I fear, been more or less common to mankind ever since it was said by Him who knew what was in man, that "every imagination of the thoughts of his heart is only evil continually." But not even then are we told that such evil imaginations were dragged from the most private recesses and displayed before all men's and women's eyes. The safety of the state did not require it, and although it did, it is heathen, not Christian morality that makes even that safety the highest law. The Christian's God asks no man to serve him to the wounding of his conscience and the revolting of his moral feelings. Doing evil that good may come is always wrong, and *pessimi exempli* in public functionaries high in office. No professional zeal can excuse a public functionary for outraging that respect for private communications between man and man, still less between man and woman, which forms an essential part of social morality, and which public men are especially bound to observe. When a Secretary of State some years ago violated the sanctity of the post-office by opening letters addressed to foreign refugees, although he might have pleaded that letters addressed to outlaws were themselves beyond the pale of law, the whole nation cried shame! Every man's conscience told him that an outrage was done to that mutual confidence between man and man, and man and governments, without which society could not exist. Gentlemen, had I held the high office of the prosecutor, and been required by the Home Secretary to do what has been done with those letters, the telegraph would have instantly carried back my resignation. What should we say of a public servant who should employ eaves-droppers to overhear what passes between two persons in the intercourse of married or *quasi*-married life, and to note it down for publication in open court, and in all the newspapers? But is the case really better when he lays his barbarous paw on letters which no man can read without self-reproach—without the consciousness that he is not only doing what he would not that another should do to him, but which he would loathe the man who should do to him? Besides, is it not mere affectation to call upon no man to criminate himself, yet to take advantage of confidential communications by him to a friend, in order to criminate him, when that friend is dead? And if civilised juris-

prudence absolutely forbids forcing a man's secret thoughts from him by torture, must it not equally forbid getting at them by stealth? A time will assuredly come when the seizure of the letters of the accused, the copying of them by clerks, and their publication, will be pointed at by future writers on Scottish history as indications of a low state of moral feeling, and of a still barbarous age. The prosecutor is a most conscientious man, but, alas! the most conscientious are often, from over-zeal, the most deluded; and it is not till the delusion is removed that they see how strangely it perverts the judgment and distorts a man's morality.

And where was the necessity? Public good! Was it for the public good that there should have been such an enormous scandal begun in folly, continued in folly, ending in folly? Put your finger, Gentlemen, on what part of the evidence you will, it plainly points to the innocence of the accused. The illnesses of the deceased were all manifestly identical, both in their symptoms and their cause, but the accused had nothing to do with that cause. His last illness began on the road to Glasgow, and could not have been caused after his arrival there. The phenomena after death were absolutely incompatible with one, or even several administrations of arsenic by a poisoner, or with anything but long-continued drugging. The accused cannot possibly have deliberately pursued a scheme of murder while she remained totally unconcerned as to what was to become of her letters in the event of her success. No less impossible is it that she should have risked what she must have known would be the symptoms that would attack the deceased in or near her father's house. Her purchases of arsenic present a sixteen-fold presumption against her making them with any ill intention. Her last nine letters present unmistakeable internal marks of their being truthful, not perfidious. This is seen both in the alteration of her signature, and in their oft-repeated references to the health of her surmised victim. There is truthfulness in the very reserve of her letter to Mr Minnoch. There was not the smallest need for the surmise of murder, seeing that Dr Stevens's first hypothesis was unquestionably the true hypothesis, and that the man died of diffused poison of long standing, which poison was arsenic, proved to have been regularly taken in minute doses by himself. Weigh for a moment the sum total of the evidence in favour of the death of the deceased by self-drugging, against that in favour of murderous administration, and the latter instantly kicks the beam. Keep your eyes steadily on *facts*—shut them firmly on *mere surmises*, and all doubt vanishes. Let the *fact* of the conversation of the deceased with Ogilvie, and of the rational conviction it produced on his mind, be coupled with the *fact* of the conversation with Hill, and the rational conviction it produced on his mind, and no jury can rationally doubt that the deceased drugged himself with arsenic. If any doubt remains, add the telling *fact* that to M. de Mean he insisted that arsenic taken in small quantities could hurt no one. Then clench the whole by the testing *facts* of his illnesses, all indicating the diffusion of an irritant poison of long standing, and of his body, even to the liver, heart, and brain, nay, the very *serum* exuded from the stomach and bowels, being charged with arsenic to an extent irreconcilable with either suicidal or murderous administration, and you have proof positive, if proof positive there could be, that the deceased died by self-drugging. Oppose to this the sum total of evidence marshalled by the prosecutor in his fifty page speech, and you have not even a presumption of

murder, seeing that every such surmise is counterbalanced by an enormous weight of opposing surmises, amounting in some cases to all but proof positive. In a word, in the one case we arrive at the moral certainty that the panel did neither murder, nor attempt to murder, or desire even to injure any one; in the other case, we have proof positive that the deceased died in consequence of exposure to cold and damp, and while his body was saturated with arsenic. Finally, the prosecutor's tale of horrors is, by his own confession, incredible.

POSTSCRIPT.—After the author had sent the above to the press, a medical friend sent him Dr Christison's very able work on Poisons. He opened it with some alarm, and thankful that he had stated only as true, until facts should prove the contrary, that there is a physical impossibility of arsenic being found in the liver, heart, and brain, unless in the case of long-continued drugging. Great, accordingly, has been his relief to find the most satisfactory confirmation of that view in the writings of so eminent an authority. He dreaded finding cases of extensive diffusion following single deadly doses, or cases perhaps of diffusion after death. But so undiffusive is arsenic, that Dr C. questions its ever entering the blood at all! He holds that it acts only on the nervous system when it kills, and immediately after death its diffusion through the body is arrested, as is proved by the clear line separating its antiseptic influence, where present, from the unaffected parts. Nothing perhaps can more clearly support the inference of common sense as stated by the author than the case mentioned by Christison of a horse which had got 11½ drachms of arsenic in 60 hours, and died 36 hours after the last dose. Here four whole days were allowed for diffusion, and yet not a particle of the poison could be detected "in liver, lungs, muscles, heart, kidneys, spleen, blood, or brain."—See *Christison on Poisons*, second edition, p. 264.

But the first paragraph of page 229 of Dr Christison's work throws another light on the subject, which the author must leave such able chemists to explain. To common sense, that paragraph, taken along with Dr Penny's and Dr Christison's analysis of the contents of the stomach of the deceased, seems to indicate either that the arsenic taken by the deceased must have entered his stomach as a solution, or that years of continued drugging had dissolved a large quantity into the fluids of his body. It appears that hardly a trace of arsenic is ever found in the fluid parts of the stomach in persons poisoned by arsenic—at most, in the proportion of the fifth of a grain per ounce. But in the case in question, the proportion seems to have been *ten grains per ounce*, not including the white powder, which subsided on the liquid remaining at rest. Now, how are we to reconcile recent large administration with such an unprecedented amount? Could there be a clearer proof that the arsenic came, mainly at least, from the body, into which it had previously been absorbed by continuous drugging?

It was not without the warrant of a medical practitioner that the author stated the body's power of accommodation to arsenic as a fact. This fact Dr Christison does not contradict, but questions. His words are: "The tendency of habit to modify the action of arsenic is questionable. So far as authentic facts go, habit has no power of familiarising the constitution to its use. One, no doubt, may hear now and then of mountebanks who swallow, without injury, entire scruples or drachms of arsenic, and vague accounts have reached me of patients who took unusually large doses for medicinal purposes. So far as my own experience goes, the habit of taking arsenic in medicinal doses has quite an opposite effect from familiarising the stomach with it; and the same observation has been made by many practitioners whom I have consulted."—Page 270. Be it so, yet this nowise overturns the author's induction. May not those vague accounts have had some foundation in facts? A still greater amount of authority seems quotable against arsenic ever being found in the blood, or such parts of the body as it was certainly found in, in the case of the deceased. Query—Could the arsenic have reached those parts without previous accommodation? Again, is no allowance to be made for the exhaustion of its morbid energy, so that uniform, not gradually-augmented minute doses, might accumulate without causing death, until a considerable quantity had permeated the living tissues? As to exhaustion, could the identical five grains that killed a rabbit by being passed *seriatim* from the dead to the living body, kill 1000 rabbits without ever becoming effete? And what of counter-agents? Might not successive minute doses taken by the deceased have been partially neutralised by antidotes? Dr C. mentions (p. 322) charcoal and magnesia as antidotes. May not the white powder found in the stomach of the deceased have been magnesia? The *Edinburgh Advertiser* quotes a foreign authority for laudanum as an antidote. Did not the deceased take laudanum? In fine, in concluding against murderous and suicidal administration we reason from facts against surmises, in concluding against continuous drugging we should reason from surmises against facts.





TIGHT GUTTERS

