

The trial of Robert Sawle Donnall, surgeon and apothecary, late of Falmouth, in the county of Cornwall, for the wilful murder by poison, of Mrs. Elizabeth Downing, widow, his mother-in-law, at the Assize at Launceton, for the county aforesaid, on Monday, March 31, 1817 ... / Taken in short-hand by Alexander Frazer.

Contributors

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Frazer, Alexander.

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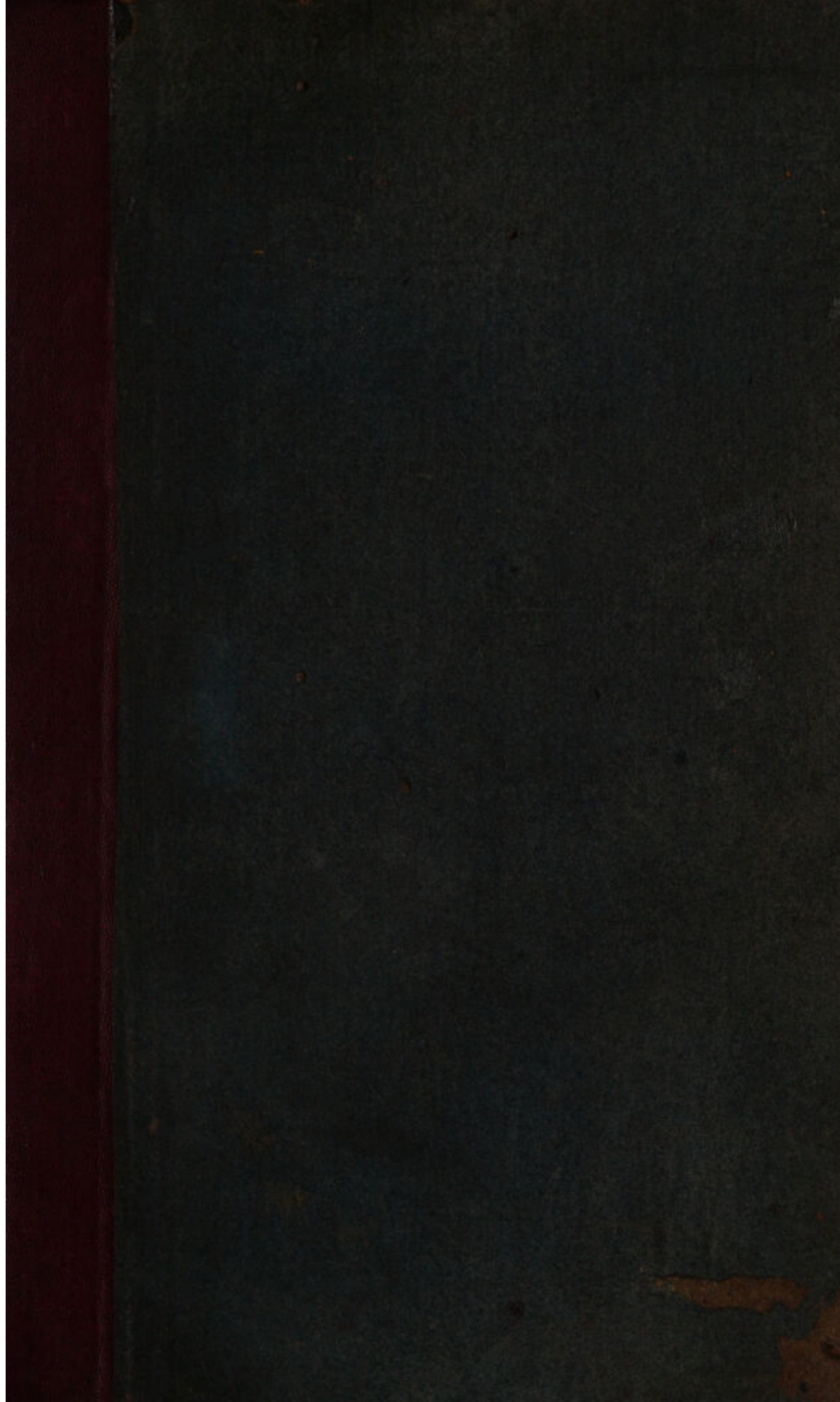
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DONNALL,

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John Arden ³¹¹⁹⁹
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TRIAL

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THE

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REPOSITORY

OF

ARTS AND

1814

TRIAL
OF
ROBERT SAWLE DONNALL,
FOR THE
Willful Murder, by Poison,
OF
MRS. ELIZABETH DOWNING,
HIS MOTHER-IN-LAW.

THE

ROBERT SAWLE DONNELL

TRIAL

ROBERT SAWLE DONNELL

[ENTERED AT STATIONERS' HALL.]

Mrs. ELIZABETH DOWNING
HIS MOTHER-IN-LAW

31199

THE
TRIAL
OF
ROBERT SAWLE DONNALL,
SURGEON AND APOTHECARY,

LATE
OF FALMOUTH, IN THE COUNTY OF CORNWALL,

FOR THE
Willful Murder, by Poison,
OF
MRS. ELIZABETH DOWNING, WIDOW,
HIS MOTHER-IN-LAW,

AT THE
Assize at Launceston, for the County aforesaid,

On Monday, March 31, 1817,

BEFORE THE HONORABLE SIR CHARLES ABBOTT, KNT.

One of the Justices of his Majesty's Court of King's Bench.

TAKEN IN SHORT-HAND
BY ALEXANDER FRAZER,
27, THAVIES INN, LONDON.

Falmouth:

PRINTED BY AND FOR JAMES LAKE;
SOLD ALSO BY J. RICHARDSON, LONGMAN, HURST, REES, ORME, AND
BROWN, AND GALE, CURTIS, AND FENNER, LONDON;
WILSON AND SONS, YORK; AND ALL
OTHER BOOKSELLERS.

1817.



ROBERT SAWYER DONNELL

OF THE COUNTY OF CORNWALL

OF THE COUNTY OF CORNWALL

FOR THE

OF THE

OF

Mrs. ELIZABETH DOWNING, WIDOW,

THE MOTHER-IN-LAW,

AT THE

OF THE COUNTY OF CORNWALL

On Monday, March 21, 1814.

Before the Honorable Sir CHARLES ARNOTT, Knt.

One of the Justices of the High Court of England

TAKEN IN SHORT HAND

BY ALEXANDER FRASER,

OF THE COUNTY OF CORNWALL

Printed by

PRINTED BY AND FOR JAMES EARLE;

SOLD ALSO BY J. RICHMOND, LONGMAN, HORNE, BEECH, AND

STEWART, AND JOHN TAYLOR, AND TAYLOR, LONDON;

MILNOR AND COOK, YORK; AND ALL

OTHER BOOKSELLERS.

1814.

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THE KING AGAINST DONNALL.

Copy of the Indictment.

Cornwall, to wit,

The Jurors for our Lord the King upon their oath present that Robert Sawle Donnall, late of the town of Falmouth in the county of Cornwall, surgeon, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, and feloniously wilfully and of his malice aforethought devising and intending one Elizabeth Downing, widow, to poison kill and murder, on the third day of November, in the fifty-seventh year of the reign of our Sovereign Lord George the Third, of the united kingdom of Great Britain and Ireland King, Defender of the Faith, with force and arms at the town aforesaid, in the county aforesaid, did knowingly wilfully feloniously and of his malice aforethought give and administer and cause to be given and administered to her the said Elizabeth Downing, certain deadly poison, to wit, arsenic, with intention that the said Elizabeth Downing should take and swallow down into her body the said poison, he the said Robert Sawle Donnall then and there well knowing the same to be deadly poison; And that the said Elizabeth Downing not knowing the same to be poison did then and there, to wit, on the said third day of November in the fifty-seventh year aforesaid, at the town aforesaid, take and swallow down into her body the said poison so given and administered and caused to be given and administered to her by the said Robert Sawle Donnall as aforesaid; By means of which said taking and swallowing down into the body of her the said Elizabeth Downing of the said poison so given and administered and caused to be given and administered to her by the said Robert Sawle Donnall as aforesaid, she the said Elizabeth Downing then and there became sick and greatly distempered in her body, of which said sickness and distemper of body, occasioned by the said taking and swallowing down of the said poison so given and administered and caused to be given and administered to her by the said Robert

Sawle Donnall as aforesaid into the body of her the said Elizabeth Downing, she the said Elizabeth Downing upon and from the said third day of November in the fifty-seventh year aforesaid until the fourth day of the same November, at the town aforesaid, did languish and languishing did live, on which said fourth day of November in the fifty-seventh year aforesaid, at the town aforesaid, she the said Elizabeth Downing, of the poison aforesaid so taken and swallowed down as aforesaid, and of the said sickness and distemper thereby occasioned did die: And so the Jurors aforesaid upon their oath aforesaid do say, that the said Robert Sawle Donnall her the said Elizabeth Downing in manner and by the means aforesaid feloniously wilfully and of his malice aforethought did poison kill and murder, against the peace of our said Lord the King his crown and dignity.

And the Jurors aforesaid upon their oath aforesaid do further present that the said Robert Sawle Donnall not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil and feloniously wilfully and of his malice aforethought devising and intending the said Elizabeth Downing to poison kill and murder on the nineteenth day of October, in the year of our Lord one thousand eight hundred and sixteen, and on divers other days and times between that day and the said fourth day of November in the fifty-seventh year aforesaid, with force and arms at the said town of Falmouth in the said county of Cornwall, knowingly feloniously wilfully and of his malice aforethought did give and administer and cause to be given and administered to her the said Elizabeth Downing, certain deadly poison, to wit, arsenic, with intent that she the said Elizabeth Downing should take and swallow down into the body of her the said Elizabeth Downing the said last-mentioned poison, and that the said Elizabeth Downing not knowing the same to be poison did afterwards, to wit, on the said nineteenth day of October, in the year of our Lord one thousand eight hundred and sixteen, and on divers other days and times between that day and the said fourth day of November in the fifty-seventh year aforesaid, at the town aforesaid, take and swallow down into her body the said poison so given and administered, and caused to

be given and administered to her by the said Robert Sawle Donnall as last aforesaid; And the said Elizabeth Downing, of the said poison so given and administered, and caused to be given and administered to her by the said Robert Sawle Donnall as last aforesaid, on these several days and times there became sick and greatly distempered in her body, of which said last-mentioned sickness and distemper of body, occasioned by the taking and swallowing down of the said poison so given and administered, and caused to be given and administered to her by the said Robert Sawle Donnall as last aforesaid, into the body of her the said Elizabeth Downing, she the said Elizabeth Downing, from the said several days and times last mentioned until the said fourth day of November in the fifty-seventh year aforesaid, at the town aforesaid did languish, and languishing did live, on which said fourth day of November in the fifty-seventh year aforesaid, at the town aforesaid, she the said Elizabeth Downing, of the poison so taken and swallowed down as last aforesaid, and of the said last-mentioned sickness and distemper thereby occasioned, did die: And so the Jurors aforesaid upon their oath aforesaid do say, that the said Robert Sawle Donnall her the said Elizabeth Downing, in manner and by the means last aforesaid, feloniously wilfully and of his malice aforethought did poison kill and murder, against the peace of our said Lord the King his crown and dignity.

And the Jurors aforesaid upon their oath aforesaid do further present that the said Robert Sawle Donnall, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, and feloniously wilfully and of his malice aforethought devising and intending to poison kill and murder the said Elizabeth Downing on the said third day of November in the fifty-seventh year aforesaid, with force and arms, at the said town of Falmouth in the said county of Cornwall, feloniously wilfully and of his malice aforethought a certain deadly poison, to wit, arsenic, did put infuse in and mix with certain cocoa; And did then and there, to wit, on the said third day of November in the fifty-seventh year aforesaid at the town aforesaid, feloniously wilfully and of his malice aforethought give and deliver and cause to

be given and delivered the said cocoa, with the said last-mentioned poison so put and infused therein and mixed therewith as aforesaid, to the said Elizabeth Downing, with intention that the said Elizabeth Downing should take drink and swallow down the same into her body; And the said Elizabeth Downing not knowing the said last-mentioned poison to have been so put and infused in and mixed with the said cocoa, did then and there, to wit, on the said third day of November in the year aforesaid at the town aforesaid, take drink and swallow down into her body the said last-mentioned poison so put and infused in and mixed with the said cocoa; By means of which said taking drinking and swallowing down into the body of her the said Elizabeth Downing the said last-mentioned poison so put and infused in and mixed with the said cocoa by the said Robert Sawle Donnall as aforesaid, she the said Elizabeth Downing then and there became sick and greatly distempered in her body, of which said sickness and distemper of body occasioned by the said taking drinking and swallowing down of the said poison so put and infused in and mixed with the said cocoa as aforesaid into the body of her the said Elizabeth Downing, she the said Elizabeth Downing from the said third day of November in the fifty-seventh year aforesaid until the fourth day of the same November at the town aforesaid, did languish, and languishing did live, on which said fourth day of November in the fifty-seventh year aforesaid at the town aforesaid, she the said Elizabeth Downing of the poison last aforesaid so taken drunk and swallowed down as last aforesaid, and of the said sickness and distemper thereby occasioned did die: And so the Jurors aforesaid upon their oath aforesaid do say that the said Robert Sawle Donnall her the said Elizabeth Downing in manner and by the means last aforesaid feloniously wilfully and of his malice aforethought did poison kill and murder, against the peace of our said Lord the King his crown and dignity.

And the Jurors aforesaid upon their oath aforesaid do further present that the said Robert Sawle Donnall not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, and feloniously wilfully and of his malice aforethought devising and intending to poison kill and murder the said Elizabeth

Downing, on the said third day of November in the fifty-seventh year aforesaid, with force and arms at the said town of Falmouth in the said county of Cornwall, knowingly wilfully feloniously and of his malice aforethought, certain deadly poison, to wit, arsenic, did put infuse in and mix with certain cocoa which had been before that time made and prepared, and which was then and there about to be drunk by her the said Elizabeth Downing, he the said Robert Sawle Donnall then and there well knowing that the said last-mentioned cocoa was then and there about to be drunk by the said Elizabeth Downing, with intent that the said last-mentioned cocoa with the said last-mentioned poison put infused in and mixed with the same as aforesaid, should be administered to and drunk by her the said Elizabeth Downing, and that the said last-mentioned cocoa with the said last-mentioned poison so put and infused in and mixed with the same as aforesaid was afterwards, to wit, on the said third day of November in the fifty-seventh year aforesaid at the town aforesaid, administered and delivered to the said Elizabeth Downing; And the said Elizabeth Downing not knowing the said last-mentioned poison to have been so put and infused in and mixed with the said last-mentioned cocoa, did then and there take drink and swallow down into her body several quantities of the said last-mentioned cocoa with the said last-mentioned poison so put and infused in and mixed with the same as aforesaid; By means of which said taking drinking and swallowing down into the body of her the said Elizabeth Downing of the said poison so put and infused in and mixed with the said last-mentioned cocoa by the said Robert Sawle Donnall as last aforesaid, she the said Elizabeth Downing then and there became sick and greatly distempered in her body, of which said sickness and distemper of body, occasioned by the said taking drinking and swallowing down of the said last-mentioned poison so put and infused in and mixed with the said last-mentioned cocoa as aforesaid into the body of her the said Elizabeth Downing, she the said Elizabeth Downing upon and from the said third day of November in the year aforesaid until the fourth day of the same November, at the town aforesaid, did languish and languishing did live, on which said fourth day of November in the fifty-seventh year aforesaid, at the town aforesaid, she the said Elizabeth Downing, of the poison last mentioned aforesaid so taken drunk

and swallowed down as last mentioned aforesaid, and of the said sickness and distemper thereby occasioned did die: And so the Jurors aforesaid upon their oath aforesaid do say, that the said Robert Sawle Donnall her the said Elizabeth Downing in manner and by the means last aforesaid feloniously wilfully and of his malice aforethought did kill and murder, against the peace of our said Lord the King his crown and dignity.

And the Jurors aforesaid upon their oath aforesaid do further present that the said Robert Sawle Donnall not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil and feloniously wilfully and of his malice aforethought devising and intending to poison kill and murder the said Elizabeth Downing on the said third day of November in the fifty-seventh year aforesaid, with force and arms at the said town of Falmouth in the said county of Cornwall, did feloniously wilfully and of his malice aforethought lay and place certain deadly poison, to wit, arsenic, upon a certain piece of bread then and there spread with butter, and did then and there, to wit, on the said third day of November in the fifty-seventh year aforesaid at the town aforesaid, feloniously wilfully and of his malice aforethought give and deliver and cause to be given and delivered the said piece of bread so spread with butter and with last-mentioned said poison so laid and placed as aforesaid to the said Elizabeth Downing, with intention that she the said Elizabeth Downing should then and there eat and swallow down the same into her body; And the said Elizabeth Downing not knowing the said last-mentioned poison to have been so laid and placed, did then and there, to wit, on the said third day of November in the year aforesaid, at the town aforesaid, eat and swallow down into her body the said piece of bread so spread with butter and with the said last-mentioned poison so laid and placed thereon as aforesaid; By means of which said eating and swallowing down into the body of her the said Elizabeth Downing, of the said last-mentioned poison so laid and placed by the said Robert Sawle Donnall as aforesaid upon the said piece of bread so spread with butter as aforesaid, she the said Elizabeth Downing then and there became sick and greatly distempered in her body, of which said sickness and distemper of body occasioned by the said

eating and swallowing down into the body of her the said Elizabeth Downing of the said last-mentioned poison so laid and placed as aforesaid, she the said Elizabeth Downing upon and from the said third day of November in the fifty-seventh year aforesaid until the fourth day of the same November at the town aforesaid, did languish and languishing did live, on which said fourth day of November in the fifty-seventh year aforesaid at the town aforesaid, she the said Elizabeth Downing of the poison last mentioned so eaten and swallowed down as aforesaid and of the said sickness and distemper thereby occasioned did die: And so the Jurors aforesaid upon their oath aforesaid do say that the said Robert Sawle Donnall her the said Elizabeth Downing in manner and by the means last aforesaid, feloniously wilfully and of his malice aforethought did poison kill and murder, against the peace of our said Lord the King his crown and dignity.

And the Jurors aforesaid upon their oath aforesaid do further present that the said Robert Sawle Donnall not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil and feloniously wilfully and of his malice aforethought devising and intending the said Elizabeth Downing to poison kill and murder on the said nineteenth day of October, in the said year of our Lord one thousand eight hundred and sixteen, and on divers other days and times between that day and the said fourth day of November in the fifty-seventh year aforesaid, with force and arms at the said town of Falmouth in the said county of Cornwall, knowingly feloniously wilfully and of his malice aforethought, certain deadly poison, to wit, arsenic, did put and infuse in and mix with certain coffee, cocoa and other liquids, then and there about to be taken and drunk by the said Elizabeth Downing, he the said Robert Sawle Donnall then and there well knowing the said coffee cocoa and other liquids were so about to be taken and drunk by the said Elizabeth Downing with intent that the said last-mentioned poison so put and infused in and mixed with the same coffee, cocoa and other liquids as aforesaid, should be by her the said Elizabeth Downing taken and swallowed down into the body of her the said Elizabeth Downing; And that the said coffee, cocoa and other liquids, with the said

last-mentioned poison so put and infused in and mixed with the same as aforesaid, were afterwards, to wit, on the said nineteenth day of October, in the year of our Lord one thousand eight hundred and sixteen, and on divers other days and times between that day and the said fourth day of November in the fifty-seventh year aforesaid, at the town aforesaid, administered and delivered to the said Elizabeth Downing, and the said Elizabeth Downing not knowing the said last-mentioned poison to have been so put and infused in and mixed with the said coffee, cocoa and other liquids, did on the several days and times last mentioned there take drink and swallow down into her body several quantities of the said coffee, cocoa and other liquids, with the said last-mentioned poison so put and infused in and mixed with the same as aforesaid; And the said Elizabeth Downing of the said poison so put and infused in and mixed with the said coffee, cocoa and other liquids as aforesaid, and so taken drunk and swallowed down into her body as aforesaid, on those several days and times last mentioned there became sick and greatly distempered in her body, of which said last-mentioned sickness and distemper of body, occasioned by the said taking drinking and swallowing of the said poison so put and infused in and mixed with the said coffee, cocoa and other liquids as aforesaid into the body of her the said Elizabeth Downing, she the said Elizabeth Downing from the said several days and times last mentioned until the said fourth day of November in the fifty-seventh year aforesaid, at the town aforesaid did languish and languishing did live, on which said fourth day of November in the fifty-seventh year aforesaid at the town aforesaid, she the said Elizabeth Downing of the poison so taken drunk and swallowed down as last aforesaid, and of the said last-mentioned sickness and distemper thereby occasioned did die: And so the Jurors aforesaid upon their oath aforesaid do say that the said Robert Sawle Donnall her the said Elizabeth Downing, in manner and by the means last aforesaid, feloniously wilfully and of his malice aforethought did poison kill and murder, against the peace of our said Lord the King his crown and dignity.

The foregoing Indictment was found by the Grand Inquest a TRUE BILL.

Counsel for the Crown,
MR. SERGEANT LENS,
MR. GAZELEE,
MR. CASBERD.

—
Solicitor for the Prosecution,
MR. TRESIDDER,
OF FALMOUTH.

Counsel for the Prisoner,
MR. SERGEANT PELL,
MR. GIFFORD.

—
Solicitors for the Prisoner,
MR. RICHARDS,
OF PENRYN.
MR. HARRIS,
LATE OF FALMOUTH.

The Jury, charged with the Prisoner.

NAMES.	PLACES OF ABODE.
1 JOHN LUSKY	of Northill
2 RICHARD DINGLE	Linkinhorne
3 WILLIAM CAWSE	Saint Neot
4 JOHN PEARSE	Lanteglos, by Fowey
5 HENRY LEAN	Saint Martins
6 DIGORY BAKER (<i>Miller</i>)	Week Saint Mary
7 RICHARD PENWARDEN	North Tamerton
8 JOHN TOM	Poundstock
9 DIGORY BAKER (<i>Yeoman</i>)	Week Saint Mary
10 THOMAS ORCHARD (<i>Bowdah</i>) .	Week Saint Mary
11 JOHN HAYMAN	Launcells
12 BENJAMIN FOLLEY	Stratton.

The Prisoner challenged two of the persons who were called as Jurymen.

Council for the District

Mr. RICHARD T. FELL
Mr. C. F. FORD

Committee for the District

Mr. RICHARD T. FELL
Mr. C. F. FORD
Mr. J. H. HARRIS
Mr. J. H. HARRIS

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Committee for the District

Mr. RICHARD T. FELL
Mr. C. F. FORD
Mr. J. H. HARRIS
Mr. J. H. HARRIS

The Board of Directors

Board of Directors

1. JOHN H. HARRIS
2. RICHARD T. FELL
3. WILLIAM C. FORD
4. JOHN H. HARRIS
5. RICHARD T. FELL
6. WILLIAM C. FORD
7. JOHN H. HARRIS
8. RICHARD T. FELL
9. WILLIAM C. FORD
10. JOHN H. HARRIS
11. RICHARD T. FELL
12. WILLIAM C. FORD

The Board of Directors

THE KING AGAINST
ROBERT SAWLE DONNALL,

FOR

The Wilful Murder

OF

MRS. ELIZABETH DOWNING,

HIS MOTHER-IN-LAW.

Mr. Casberd opened the proceedings, in behalf of the prosecution of *William Downing, John Downing, Samuel Downing, Edward Downing, and Robert Jordan*,—and the indictment was read, charging the prisoner with administering a certain deadly Poison, called Arsenic, to the said Elizabeth Downing, on the 3rd day of November, 1816, which she swallowed, and whereby she languished until the 4th day of the said month, and then died:—to this charge the prisoner pleaded NOT GUILTY, and said, he would be tried by God and his Country.

Mr. Sergt. Lens.—May it please your Lordship—Gentlemen of the Jury,—The charge which you have heard stated in this indictment, imputes to the prisoner at the bar a crime of the deepest magnitude, enhanced by the means which he used in order to effect it—means which can only be resorted to by the delusive

but wicked hope, that their secrecy may prevent the discovery of the act. These, therefore, who are placed in your situations, are called upon to judge of the probability of the fact, and must resort to inferences and minute circumstances, instead of that which the prisoner has prevented being exhibited in a plain way before you.

I do not mean that you should be guided by slight suspicions, but it is necessary for you to attend to little circumstances, which otherwise would be but of trivial moment;—considering the intended secret tendency of the means used, you must have recourse to the demeanour and conduct of the party accused, from the beginning to the end of the transaction, so as to say whether you be or be not satisfied that it was his act. Under these circumstances, it will be my duty rather more at large than in cases of ordinary nature to state particular transactions, and also to go beyond a statement of mere dry facts. It is a common course only to state plainly a few short facts, which will or will not make out the charge; but it is a subject in which you have to consider what is the consequence of circumstances, in some instances apparently remote, that may be derived from a sound judgment upon them;—bearing, therefore, these circumstances in mind, it is my duty to state, as shortly as possible, all the particular and minute facts, from the time this deadly poison was received, and which demonstrate the conduct of the person accused, from that time to a short time past, in order to ascertain what is really to be imputed to him.

The person whose death was caused by the conduct of the prisoner, was Mrs. Elizabeth Downing, residing at Falmouth, a widow lady of sixty years and upwards, apparently of a sound and healthy constitution. Her family consisted of four sons and two daughters; and it is a part of this unhappy case, that the prisoner at the bar was nearly connected with her, he having married her daughter, and living next door to her,—and that marriage was only a few months before her death. It is not to be overlooked, that at the time this young man married a daughter of this lady, he was in a most reputable profession, and although following it with a certain degree of success, he was distressed in his circumstances; he married this lady, who had a handsome fortune, which her friends had provided, previous to the marriage, should be secured to herself; the prisoner agreed to that, but afterwards changed his mind, and regretted that more was not left in his own power and possession.

Gentlemen, it is difficult to point out, from circumstances of this kind, what the particular motives or inducement might be, existing in the mind of the prisoner, to perpetrate an act of this horrible nature. As far as I am able to attribute motives to him, they are these,—that being in that situation straitened in his circumstances, and called upon to relieve them rather in a pressing manner, he was induced to look to that property which belonged to the person with whom he had become connected, and to adopt means in order to obtain an earlier possession of that property. This lady had not made any will; but it does not appear

that that fact was known either in one way or another ; —if she made no will then, the prisoner, in right of his wife, would become possessed of a very considerable portion of her property. I am aware that this is a slight circumstance ; and it will not be pressed more than is necessary hereafter. It is not possible that this act could be done without a motive ; it may be slight, and may operate on different minds in different manners. God forbid that, because a person is to be benefited by the death of a near relation, that should suggest to the mind any such crime as that of murder, in order to be possessed of the property so circumstanced ! These parties were upon the best possible terms with each other. There is no suggestion that this could have proceeded from any malice or ill-will ; they were next-door neighbours, and were in the habit of visiting each other :—something may depend upon those circumstances.

At an earlier period than this day which is stated in the indictment, the 3rd of November, 1816,—namely, as early as the 19th of October, which is upwards of a fortnight before, this lady had visited her son-in-law and daughter, and had drank tea with them ; upon which occasion, she was seized with a sickness and heat in the stomach, and was much indisposed ; but whether any thing were taken then or not, you cannot form a judgment, until you hear the whole of the case. She was ill that night, in somewhat the same manner as she was taken ill afterwards ; but to whatever it was owing, she had recovered her entire health, and was, on this 3rd of November, as well as ever she was,

and her health was generally good. Upon this 3rd of November, she went again to drink tea at the house of the prisoner. We shall lay before you, as distinctly as we can, the circumstances attending this visit. Supposing her death were owing to that to which it is attributed,—whether the prisoner had an opportunity of doing that which escaped the notice of others—whether he introduced or infused the poison into the tea, or put it upon the bread and butter, or by other means, can only be collected from the circumstances which followed afterwards; for I cannot suppose that there is any direct proof exciting suspicion, that in any particular mode he administered the poison. You will bear in mind the peculiar circumstances in which he stands, he is by profession a Surgeon, and recurrence to those drugs may be had, by one of that profession, with greater facility than can be done by any other person; you cannot, therefore, expect evidence of that sort which is to be found most commonly in other cases, as to the means of procuring the poison, which often furnishes the means of detection. That, however, is a matter which is not to be carried farther than the import of it bears; he is not to suffer on that account merely, but it is a guide as to what you require to be exhibited directly before you.

I understand that the witnesses will state, that he was not only there on the occasion, but that he was officious and attentive to his mother-in-law, as might be expected at his own house. You will, therefore, weigh those circumstances upon the one side, and upon the other hand consider that the officiousness of a per-

son ought not of itself to be the means of making you draw a conclusion, unattended with other circumstances. You will find that, upon her returning home after this visit on Sunday the 3rd of November, she was immediately taken ill in the same manner, but more violent than before, and was particularly affected with a great heat in the stomach. The state in which she was at first, and the way in which she passed that night, will be described to you by other witnesses; and you will be informed that at the end of 14 hours, she expired without any particularly apparent cause, and without the action of any thing that in nature brings persons to an end, or which operates gradually in death. Mr. Donnall being the medical person who attended the family, was naturally called in. How soon he was aware of her danger does not appear, but he apprised the persons who were nearly and dearly connected with her that she was in danger, in the course of that night, and he directed that Dr. Edwards the physician should be sent for, who soon came, and found from the state of her pulse that she could not live long. During all that time no reason appeared for this sudden change; at the end of 14 hours she expired, and there was no appearance of suspicion as to the cause of her death being occasioned by any one, at that time: there was nothing to lead any one to imagine that any thing but natural causes contributed to it.

At this period, however, and subsequently, it is material to attend to the conduct of the prisoner;—such was her situation, that it might have excited suspicion in himself, and might have created inquiry

as to the cause ; but that he did not do that, is not to be considered as more than a suspicious circumstance against him. The demeanour of the prisoner, when that suspicion has once arisen, does in every part of it become a subject for your minute attention and consideration. Although this lady had died under these extraordinary circumstances, on the Monday morning only, it was proposed by the prisoner that she should be buried as early as the Wednesday following, upon a suggestion which does not appear to have been founded on any fact—namely, that there was danger in keeping the body long, in case of its swelling, and a running taking place in the nostrils, which was urged as a reason for the expediting of the funeral, that was to take place—not in Falmouth, but at the distance of four or five miles from it—at a place where I understand some of the family had been buried before. It could not be done so early as he expected, and you will find an improper earnestness on the part of the prisoner, or rather what may be termed solicitude, to have it expedited ; he went to the person preparing the funeral, and expressed a great deal of anxiety, such as could not belong to a natural transaction, pretending that he had to go to see a patient, and that he would call on his way at the church-yard, to see that the men were getting on with the work in preparing the vault :—to have visited that patient, he must have crossed a ferry, the other road being many miles round from the church-yard alluded to. It appears that he did not go that way which he had described, but you will find that he did go to this

burial-place called Mawnan, the nearest road he could take, for the purpose of expediting the grave as soon possible; it could not be prepared, he was told, before the Friday; and you will find that some explanation is necessary as to his conduct upon that occasion, for he said, it should at all events be done by Thursday. It was suggested as a reason for his going to Mawnan, that he was going to another place much farther off, called Manackan, in order that he might avert suspicion; but the fact was, he was going to no where else but to Mawnan, and that he was more solicitous about expedition as to this funeral, than in the common course of matters he should be.

The Mayor of the town of Falmouth received an anonymous letter, suggesting that the death of this person had not been occasioned in the natural course, but that from the circumstances known to every one, the probability of its being done by poison was suggested. As soon as the attention of the relatives of the deceased was drawn to this, a copy of this anonymous letter was presented to the prisoner,—and you will hear his surprise and suspicious conduct on that occasion;—surprise, anxiety, and uneasiness, might be expected, but the agitation accompanying it was beyond any thing; the letter dropped from his hand, and was picked up by the person who gave it to him. You will judge whether the demeanour he exhibited on that occasion corresponded with that surprise and pain that a near relation could feel upon the suspicion being first suggested,—but I forbear saying more on this part of the case, and will leave

you to judge from the circumstances themselves, as they will be described by the witnesses. It would have occurred, one would think, to a person in his situation, that upon there being such a suggestion that this lady had died by poison, means should be resorted to in order to ascertain whether it was so or not—namely, that the body should be opened, in order to discover whether there were such circumstances attending that examination as to confirm that suspicion which had already been excited. You will find not only that he did not of himself propose it, (and I do not wish to carry it beyond what the evidence would amount to) but although he by no means discountenanced it altogether, yet he threw impediments in the way, and suggested that his business would not admit of time to attend to it. You will find him betraying a backwardness and unwillingness to have it done. The utmost unwillingness, however, that he might then express, would not prevent the act. It occurred to others that it should be done, and it was done. It was determined that Dr. Edwards should open the body; then what passed when it was opened? He came there himself, and what I may mention as a matter of indelicacy, he prepared himself, expecting that he should be allowed to perform the operation of opening the body. It was stated that it was improper that he should do it, and it was determined that Dr. Edwards should open it. What was his next piece of conduct? A necessary thing then was, that the contents of the stomach should be preserved in order to be investigated; and that an examination should be

proceeded to, in order to see whether any matter of a poisonous nature had existed in the stomach. Dr. Edwards intimated, in the presence of Mr. Street (a surgeon) and the prisoner—and it was hardly necessary, but it was so stated—that the contents should be put away, without the possibility of being mingled with extraneous matter, or of being altered, till the final examination took place. In consequence of this, the contents of the stomach were put into a jug, and placed upon a chair in the room, by itself, whilst Dr. Edwards and Mr. Street proceeded to examine the other parts of the body. You will find that, upon that occasion, the conduct of the prisoner was such as hardly to be accounted for; he removed this jug and emptied its contents into a chamber utensil, and replaced the jug in the situation it was in before; and when Dr. Edwards discovered this, he expressed himself hastily, and asked why it was done?—Whom was this done by? You will find that it was done by the prisoner, apparently without any sufficient reason, and without attending to that which his own skill might have suggested—namely, the propriety and necessity of not altering the condition of the contents.

The examination (notwithstanding this conduct) took place by Dr. Edwards, of the contents of the stomach, and that which was found to be contained therein, was such as was before suspected. Dr. Edwards was not able, at first, to account for the immediate cause of her death, but was satisfied that it was not a natural death. It was suggested by the prisoner that her complaint was Cholera Morbus, and that that

was the cause of her death ; but you will hear from Dr. Edwards and other medical persons, that although it be a fatal disorder, it could not operate so hastily. It was a violent affection of the stomach, attended with circumstances which were rendered apparent afterwards. You will hear from medical persons, whether the degree of inflammation were from natural causes, or produced by the presence of extraneous matter sufficient to operate so as to cause the death ; because, whatever doubt there may be as to the cause, of the inflammation there was none at all. As to this, the immediate cause was a violent inflammation of the stomach and bowels, however produced and procured. Dr. Edwards proceeded to detect the cause ; from that which he examined, you will find, that although he did not detect the presence of arsenic in substance, yet he did detect it so as to satisfy himself of its actual presence in solution,—and you will judge of the propriety of the reasons, which he will state to you, for drawing that conclusion.

It appears to me not to be necessary now, to go farther into those reasons, but those who conduct these proceedings for the prisoner, will enter into the consideration of the particular grounds upon which Dr. Edwards drew that conclusion ; it was a thing not to be judged of, without experiments by persons skilled in chemical knowledge. Dr. Edwards was convinced that the death of this person was caused by that particular poison called Arsenic :—not that it is necessary to shew that it was that particular poison, although it be so suggested upon the indictment ; but the essential

part of the question is, was the death occasioned by poison or not? Dr. Edwards, however, came to the conclusion, that it was done by the presence of extraneous and poisonous matter, and that that extraneous matter was arsenic. Dr. Edwards being convinced that such was the cause of the death, it became necessary, after some time, to inquire into the manner, and by whom, that poisonous matter had been administered; and the result of those inquiries was, that the prisoner was the person suspected of having been guilty of it, as suspicion arising undoubtedly from the want of that openness and fairness which, if an innocent man, it was unfortunate he did not display upon that occasion; for if he had done so, then no suspicion would have been suggested against him: but his not pursuing that course which any plain innocent man would have pursued, under such circumstances, is the cause that he is now brought up here before you, to answer the ends of justice. You will find that that conduct which he adopted, was what was only calculated to screen an act of this kind, and such as could only proceed from his consciousness of guilt.

You will have the evidence of the other medical person who attended the examination of the body, as to what was the cause of the death, which will shew that it was not a death arising from the course of nature, but one occasioned by extraneous matter applied, as is suspected, by the prisoner; but if this death can be ascribed to any natural cause consistent with the appearances exhibited, then this prosecution will be at an end—but your judgment upon that point

must be founded upon the medical opinions, and the evidence which may be produced. I do not wish to press this part of the subject—namely, the demeanour of the prisoner—farther than may be deemed necessary; but it is certainly a part of the circumstances to be taken into account, and therefore you must take it into your consideration. A man perfectly innocent of so heinous an offence, would be certainly solicitous to have it cleared up as soon as possible—but you will find, from whatever motive such conduct may have proceeded, that he endeavoured to withdraw himself from justice, although unsuccessfully. I mention this as a circumstance which you should bear in mind, weighing it with caution upon the one hand and indulgence upon the other, to ascertain whether it appears suspicious, and whether it may lead to a conclusion either on one side or the other; for where the act itself admits of no plain and direct interpretation, then the conclusion is, that it could arise from nothing but guilt;—if you be satisfied that it was owing to guilt, then you must pronounce that it was owing to the prisoner being conscious of having been the cause of this lady's death.

This is the whole of the case; we shall proceed, as shortly as possible, to draw your attention to it by proof; but you are aware that many circumstances, in such a case, must be stated, which may appear at first not to be very material—but we will endeavour not to repeat that proof, by putting the same questions to different witnesses; for when they are

once proved, it will enable you to state whether this person, the prisoner before you, were guilty of causing this violent death in the manner I have described. I shall first call a Mr. Gabriel Abrahams to prove to you the situation of this Mr. Donnall's circumstances, and then I shall call Dr. Edwards and Mr. Street, the medical gentlemen who attended the examination of the body.

EVIDENCE FOR THE PROSECUTION.

Mr. Gabriel Abrahams (examined by *Mr. Gazelee*).

I believe you have been for some time resident at Falmouth?—Yes, sir.

Do you know the prisoner *Mr. Donnall*?—Yes, undoubtedly.

He has also been for some years resident at Falmouth?—Yes.

He is a Surgeon and Apothecary there?—Yes.

Had you any occasion, early in the year 1816, to learn from him the situation of his circumstances?—Yes, sir.

Was any application made by him to you?—Yes.

State what it was, and when?—The first application was made in February 1816, for a loan of the sum of £11.

Was there any other after that?—Yes, on the 26th of February.

State then, what the application was for, and what the prisoner said?—The first £11, he said he wanted, to pay some taxes; and he then upon the 26th of February, applied for £50 for some other purposes, as he told me that he was going to get married, and that consequently the money would be repaid.

State precisely what he said on that occasion, as far as you recollect?—I was not agreeable that he should

have the money, and he requested Mrs. Abrahams my wife, to solicit for that money; and he said that it would either be the making or the ruin of him.

(By Mr. Sergt. Pell.) You were present at this time?—Yes.

(By Mr. Gazelee.) Are you speaking now of the 26th of February?—Yes.

He stated that he was about to be married?—Yes, sir, that he was going to be married to Miss Downing, in a fortnight or three weeks, and that the money was to be paid soon after his marriage; and in consequence of that I did not refuse to lend it.

In the end was the money lent him?—Yes, sir.

After that month of February, did he make any further application?—Yes.

When?—On the 22nd and 23rd of May.

What was that application?—For £50, to make it up in all, £125; I omitted to mention £14, he had when I was absent from home.

What did he say upon that last occasion, in the month of May, when he desired to have the money to make up the sum of £125?—I don't recollect any thing particular.

(By Mr. Justice Abbott.) Did he have that £50 more?—Yes, my Lord.

(By Mr. Gazelee.) Do you know when he was married?—I believe he was married about three months afterwards.

After he was married, did you make any application to him for the repayment of the money?—Yes, several times.

What did he say upon those occasions?—He said I should have the money very soon.

Do you remember when Mrs. Downing died?—Yes, but I cannot say exactly the day; I remember the time of her death.

Had you seen the prisoner, or made application to him, a short time before her death, or a few weeks before her death?—I made several applications; I believe the last application I made was about three weeks before her death.

What passed between the prisoner and you, on that occasion?—I requested that, as the money had been so long unpaid beyond the time of promise, he would immediately pay it; he said, he could not make it convenient to do so; I then requested that he would get a friend to pay it for him; he said, he did not know any,—he might have the money from Mrs. Downing, but he did not like to lay himself open to her, as he might, by and bye, be injured by it, or that it might be attended with some injury, if he laid himself open to her.

Did he say any thing more?—I requested him to get the money, and he said he could not get it any where else but from Mrs. Downing, and that it might be of some consequence to him, for that it might be injurious if he could not have it; I said he must get it somewhere else, and he said, “don’t be in a hurry, but that the money would be had very soon.”

Did he give any reason why it would be had soon?—He said that Mrs. Downing would not live long, as he suspected she was in a bad state of health.

What was it he said?—That Mrs. Downing would not live long, and that the money would be paid between that time and Christmas, so that I did not make any further application.

Repeat slowly and distinctly what he said upon that subject; did he give any reason why the money would be paid soon?—No particular reason besides that which I have stated; he told me that Mrs. Downing would not live long, but that by Christmas or before, the money would be paid: he did not say, “in consequence of that”; but he said, “or before that”.

Had you occasion to make any application to the prisoner, after the death of Mrs. Downing, and upon what day was it?—I believe that it was the day previous to his being apprehended.

State what passed then?—The day previous to his apprehension, I was spoken to, in his behalf, by my daughter and the Attorney.

I don't ask you as to that which was said by your daughter, or the Attorney, but what did you say to the prisoner?—I requested to have some further security, as I understood he would be apprehended, and he called in the evening previous to it, but nothing was spoken as to the money, any farther than as he and I were intimately acquainted, I asked him as to the circumstances of the inquest, and as to some circumstances that I had heard had occurred, as to throwing away the contents of the stomach; I asked him how he came to do that, and he said he did not think it of any consequence.

Did he say any thing else?—I asked him with respect

to whether Dr. Edwards had called there or not.

Mr. Sergt. Lens—That is enough upon that subject.

(Cross-examined by Mr. Sergt. Pell.)

Are those the very words that you have given to us that the prisoner used?—To the best of my knowledge.

Are you sure he expressed himself in the way you have related, that he would not lay himself open to Mrs. Downing?—Yes, as far as I can recollect.

I only wish to know whether they are the very words, or the purport of them?—To the best of my knowledge, they were the same words.

Had you known this gentleman much before?—Yes, we were intimately acquainted.

How long had he practised in Falmouth?—I believe two years, but I am not exactly sure of the time.

Mr. Samuel Downing (examined by Mr. Casberd).

You are a son of Mrs. Elizabeth Downing deceased?—Yes, sir, I am.

Your mother was a widow, was she not?—She was. The prisoner at the bar married your sister, did he not?—He did.

Do you recollect how long ago he came to settle at Falmouth?—In the spring of 1814.

With whom did he reside at that time?—With Mrs. Howard.

He lodged with her?—Yes.

When did you first understand that he paid his addresses to your sister?—In the autumn of 1815.

Had he at that time removed his residence from Mrs. Howard's to any other place?—He had.

Where had he gone to reside at that time?—In the adjoining house to my mother's.

Do you recollect what his establishment consisted of, when he lived there, or what number of servants he kept?—He kept a maid-servant and a livery-servant.

We understand that he was in the medical profession?—He was.

A Surgeon?—Yes.

Did you ever learn from him what he might be gaining by his profession, about the time he was paying his addresses to your sister?—Whilst at Mrs. Howard's, he represented his practice to be worth from £300 to £400 per year.

(By Mr. Justice Abbott.) He made that representation to you?—Yes, my Lord.

(By Mr. Casberd.) Do you happen to know that your sister, at the time he married, was entitled to any property of her own?—Yes.

Do you know the amount of it?—£3000 or thereabouts.

Previous to his marriage with your sister, did he ever say any thing to you about the disposition of that property?—He said it was his own wish that it should be disposed of to her own use, and that he would not marry her unless it was so.

Did he ever, after that time, say any thing upon the subject of the disposition of the property?—Yes, sir.

What did he then say respecting it?—On one occasion, when Mr. Tresidder, Solicitor, attended to

arrange the marriage settlement, he brought with him a sketch of the settlement, which was read over to the family, and generally approved of; Mr. Donnall was present.

(By Mr. Justice Abbott.) The solicitor brought the sketch, did he?—Yes, my Lord; and Mr. Donnall came to me afterwards with the same sketch of the settlement, and said that he wished to have an alteration made in it—namely, that he might have the use of the property, in the event of my sister's death, in order that he might have the management of the children, if any issue.

(By Mr. Casberd.) I believe the settlement was afterwards executed, and you were a trustee?—Yes, sir.

When did the marriage take place?—Upon the 15th of July, 1816.

Do you happen to know whether your mother were possessed of any property, and to what amount?—Yes, to the amount of about £14,000.

(By Mr. Justice Abbott.) At her own disposal?—Yes, my Lord.

In money, and not land?—In funded property and leasehold.

(By Mr. Casberd.) Do you happen to know that she had made a will?—I never had an idea that she ever intended to make a will.

Was the prisoner at the bar indebted to you in any, and in what sum?—At Christmas, 1815, his twelve-month's account amounted to £40, 15s.

(By Mr. Justice Abbott.) His account of what?—For a variety of goods sold to him.

What are you?—A Mercer, and his bill amounted to £40, 15s.

(By Mr. Casberd.) Was that sum afterwards increased to any other?—Yes.

In what does he stand indebted to you now?—In £57.

(By Mr. Justice Abbott.) A running account was going on afterwards?—Yes, my Lord.

(By Mr. Casberd.) Where did you live in Falmouth? did you reside with your mother?—Yes, with my mother.

How many brothers and sisters have you?—We are four brothers and two sisters.

(By Mr. Justice Abbott.) That makes six in all?—Yes, four sons and two daughters.

(By Mr. Casberd.) Give us the Christian names?—William, John, Edward, and Samuel (meaning myself).

(By Mr. Justice Abbott.) You are the youngest of the sons, are you?—No, my Lord, I am the third.

(By Mr. Casberd.) What are the names of your sisters?—Betsey, now Mrs. Jordan, she having married a person of the name of Jordan; and Harriet, who married the prisoner.

Do you recollect, in the month of October last, your mother spending the evening out any where?—I understood from her, that she had spent the evening at Mr. Donnall's.

(By Mr. Justice Abbott.) Were you at the prisoner's house on the 19th of October, in company with your mother?—No, my Lord.

(By Mr. Casberd.) You know as a fact, that she spent the evening out?—(*No answer.*)

Mr. Justice Abbott—We have that from others who were there.

(By Mr. Casberd.) Did you spend that day with her?—I breakfasted and dined with her, on the 19th of October last.

What was the state of her health at that time?—Very good; she was in very good spirits, and ate her meals with her usual good appetite.

At what time did she dine?—About one o'clock.

Did you see her again in the course of the evening?—I saw her once.

About what time?—About twelve at night.

Had you been that day from home?—No.

What was her state, when you saw her at night?—She urged and strained a great deal, and endeavoured to get something from her stomach; she was not sick whilst I was present; she also complained of violent cramp.

Did you observe the prisoner there that night?—Yes, sir, he came in, and I saw him in her bed-room.

Did you see her on the following day?—Yes.

How was she then? was she recovered?—No, sir.

(By Mr. Justice Abbott.) Was she better?—She was something better.

(By Mr. Casberd.) How long was it before she could attend to her household concerns?—Three or four days after.

Do you recollect how long it was before she was in a condition to leave her house?—She did not go out,

to my knowledge, before Thursday the 31st of October last.

Do you recollect, upon the 3rd of November following, being at the prisoner's house in the course of the afternoon?—Yes.

What time of the day did you go there first? you went there twice did you not?—Yes.

At what time first?—At three o'clock.

Whom did you find at his house, at that time?—He was in company with Mr. Jordan.

How long did you stay there then?—About half an hour.

How soon afterwards did you return?—About half-past five.

Had you been present at your mother's, when she received any invitation to go there in the evening?—Yes.

What time was that?—About three o'clock, a few moments before I went the first time.

(By Mr. Justice Abbott.) Who invited your mother to go?—Mrs. Donnall only.

What was the invitation that was given?—She came in to request my mother to come and drink tea with her, and said that Mr. and Mrs. Jordan would be there. My mother felt a disinclination to go, and she said, "Harriet, you know the last time I was into your house I was taken sick." Immediately upon which, my mother's servant opened the parlour door and requested leave to go out.

(By Mr. Casberd.) This was on Sunday the 3rd of November, was it not?—Yes, sir.

Had she been at church in the course of the morning?—I put her to church.

That is, you walked with her to church?—Yes, sir.

What was her state of health at that time?—Very good.

Did you walk back with her from church?—I returned with her.

Had you been present with her, when she breakfasted and dined, in the course of that day?—Yes, sir.

(By Mr. Justice Abbott.) What was the state of her health and appetite then?—Very good indeed; I remarked, after dinner, that she had made a very hearty meal.

(By Mr. Casberd.) Did you observe the state of her spirits?—They were very good.

Had your mother gone before you returned, when you went the second time to the prisoner's?—When I returned to Mr. Donnall's the second time, I found every preparation made for tea; the table was in the centre of the room, and fronting the window; Mrs. Donnall was sitting at the tea-table, with her back to the window; Mrs. Jordan next to Mrs. Donnall, near the table; and my mother was sitting on the same side, next to the fire.

Upon what side of the fire-place were they sitting?—On the left hand side, as you enter the door.

(By Mr. Justice Abbott.) As you face the fire, were they on the left hand or right?—The fire was on their left hand.

(By Mr. Casberd.) The fire-place was opposite the door, was it, as you entered?—Yes, sir.

(By Mr. Justice Abbott.) If you stood facing the fire, was your mother on the left or the right?—She was sitting on the left side of the room as you enter it. Here is a plan of the room—(*handing it up to his Lordship*).

(By Mr. Casberd.) Who were upon the right-hand side of the fire, when you came in?—Mr. Donnall and my brother Edward.

Who sat nearest the fire?—Mr. Donnall. As I entered the room, Edward rose from his seat, and, at the request of my mother, he sat by her side, between her and Mrs. Jordan, and I took my brother Edward's seat, by the side of Mr. Donnall.

At this time, did you observe what there was upon the table?—The tea was prepared; the tea-urn was in, and they were only then waiting for the cocoa to be brought up.

Was there any candle upon the table?—Yes, sir.

How many?—One candle.

They were waiting for the cocoa being brought up?—Yes, sir.

Did you observe if any were brought up?—I did.

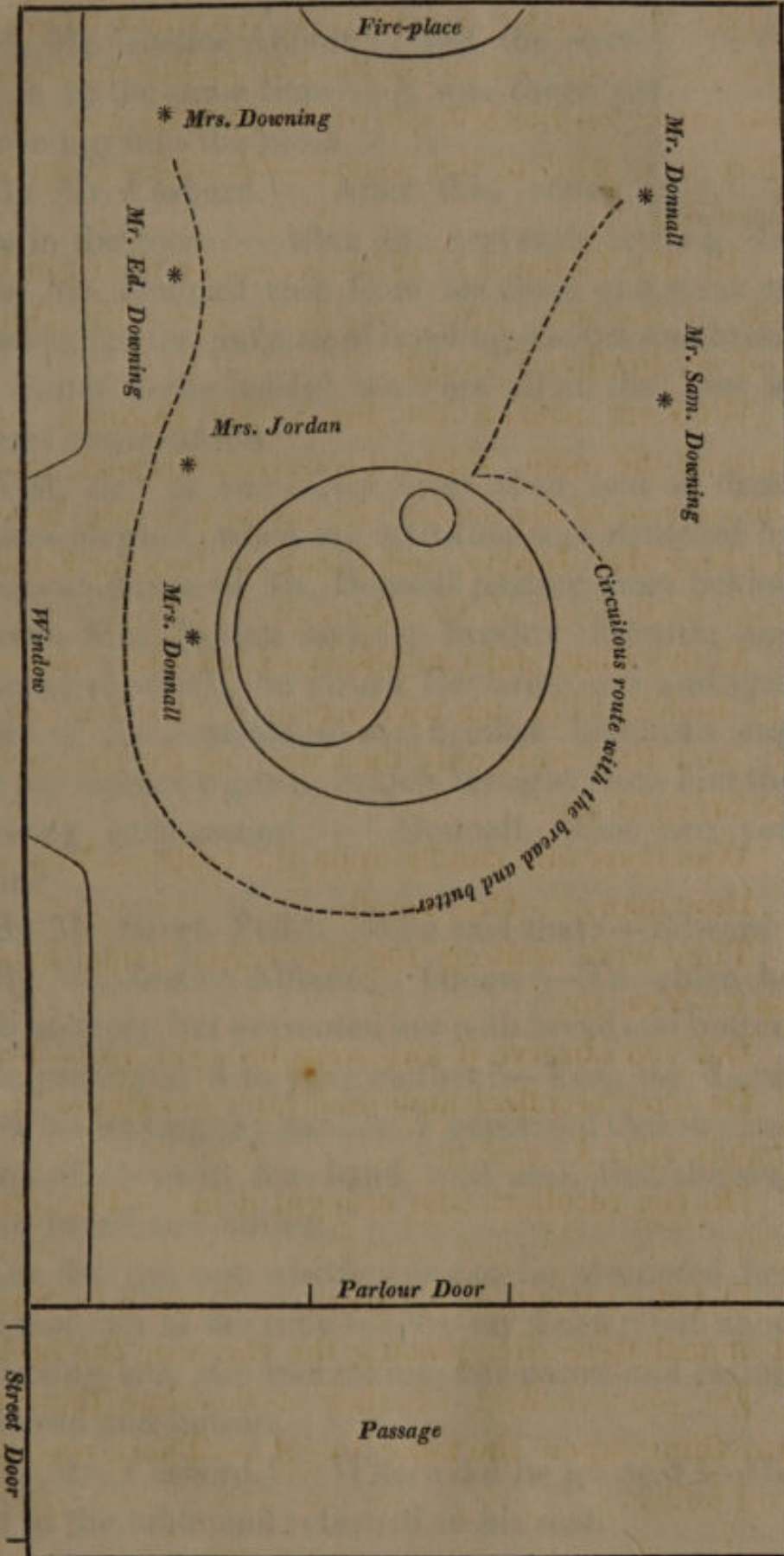
Do you recollect how soon after?—Almost immediately after I came in.

Do you recollect who brought it in?—The servant girl.

Did she remain in the room, or leave it?—She left it immediately after placing the cocoa on the table.

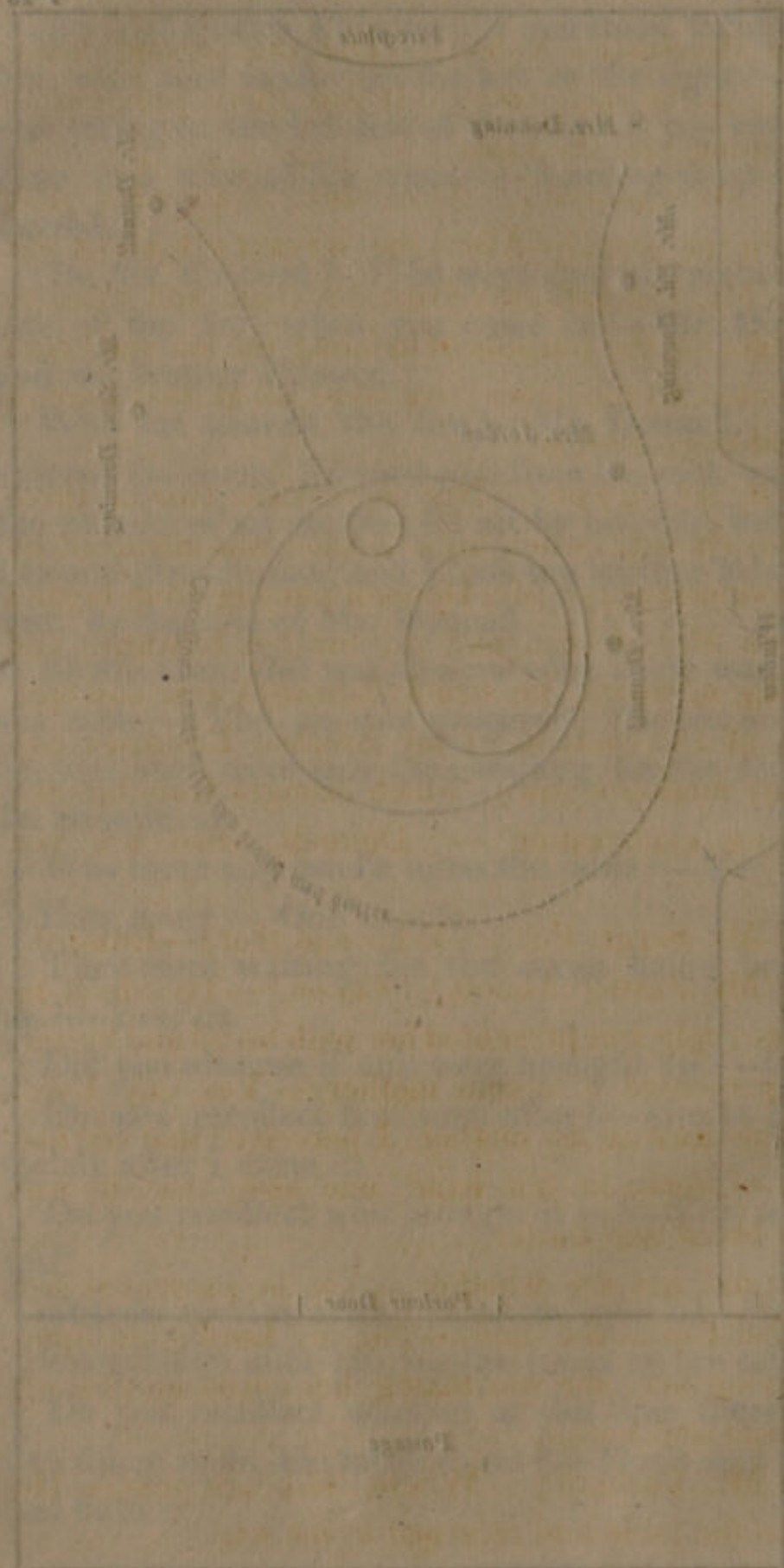
Do you recollect whether at this time there were any thing upon the table to eat?—There was bread and butter.

Plan of the Tea-Room.



Plan of the Tea-Room.

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(By Mr. Justice Abbott.) Did the servant bring that in at the same time?—It was there previous to my coming into the room.

(By Mr. Casberd.) After this, state what took place in the room?—After the servant's leaving the room, Mr. Donnall rose from his chair and went to the table, for the purpose of handing the tea and bread and butter to the ladies; we were all at that time in general conversation.

Well, sir; go on?—Not more than two or three minutes elapsed, when my attention was attracted by the circumstance of Mr. Donnall passing from behind between Mrs. Jordan and my brother Edward; and in doing of which, he struck Edward's arm and spilt a part of the contents of my brother Edward's cup over my mother's gown, which brought from him the following exclamation:—"Donnall, what are you about?"

(By Mr. Sergt. Pell.) Who said that?—Edward.

(By Mr. Justice Abbott.) Go on?—To which he made no reply, but presented her with bread and butter.

He presented it to your mother?—Yes, my Lord. Upon his leaving my mother, I perceived that she had a cup of cocoa in her hand, and also, that she was eating bread and butter.

You did not see whether or not he presented her with that cup at the time?—No, my Lord; but upon his leaving her, she was taking her cocoa and eating her bread and butter.

(By Mr. Casberd.) Where did he go next?—He went to the table and returned to his seat.

(By Mr. Justice Abbott.) By the way he had gone from it?—No, my Lord, but between the fire and the table, and in front of the ladies, he returned to his seat.

(By Mr. Casberd.) Did he leave the room afterwards, at any time?—Just as he had seated himself, and before we could enter into conversation, Mr. Donnall was called out, and went immediately.

Had you ever drank tea with Mr. Donnall before?—Very frequently.

Upon those occasions, was it usual for the servant to attend in the room at tea-time?—Sometimes, but not always.

When the servant did not attend, what was the course of proceeding in the room at tea?—Mr. Donnall was in the habit of serving his friends.

(By Mr. Justice Abbott.) With their cups and bread and butter?—Yes, my Lord.

(By Mr. Casberd.) I need hardly ask you, after what you have stated, whether you handed the first cup of cocoa to your mother?—No, I did not; nor did I see either of the party do it.

After this, did any thing happen to your mother? or first I would ask you, do you happen to know how many cups of cocoa your mother drank?—She was served with a second cup; I recollect her asking for it.

What interval might there be, between her taking the first and second cup?—About ten minutes.

(By Mr. Justice Abbott.) In the usual time between one asking for one cup after another?—Yes, my Lord.

Nothing particular either long or short?—No, my Lord.

(By Mr. Casberd.) Did any thing happen after that?—Whilst she was drinking the second cup, she complained of being sick, and returned it to the table.

How far was she sitting from the table at the time?—About four or five feet.

By Mr. Justice Abbott.) Did she get up to hand it to the table?—She gave it to my brother Edward, who returned it to the table.

(By Mr. Casberd.) What happened on her complaining of being unwell?—(*No answer.*)

(By Mr. Justice Abbott.) Did she complain of being sick, or unwell?—She complained of being unwell and removed her chair farther from the fire.

(By Mr. Casberd.) Upon that, what took place?—A few minutes after which, she requested me to make haste in and open the front door, for that she was going to retire to her own house.

Did she go home?—Yes, she followed me immediately after.

Do you happen to recollect whether, before you left the room, and before she went home, the prisoner at the bar returned into the room?—I rather think he did, but I am not certain; I rather think he returned just before she left the house.

(By Mr. Justice Abbott.) Who went home with your mother?—She was accompanied by Mrs. Jordan.

(By Mr. Casberd.) Where did she go, on returning home?—Into the small parlour upon the same floor with the street; our kitchen is under it.

What happened after that?—Immediately as she came in, she requested Mrs. Jordan to procure a basin.

Was one brought?—Yes, Mrs. Jordan procured one, and she instantly vomitted, upon the basin being brought to her.

State the observation that she made at the time, as soon as the basin was brought?—She said she hoped she should not be sick as she was the last time when she was taken ill at Mr. Donnall's; or words to that effect. Mr. and Mrs. Donnall came in very soon afterwards.

After they came in, did your mother remain in the parlour where she first went, or leave the parlour to go to any other part of the house?—She was prevailed on to go up stairs to bed.

How long did she remain up stairs before she came down again?—About five minutes; she came down and complained of heat, that she was too hot, or too warm.

Did you continue there, or did you go away for a time?—I afterwards went to church.

(By Mr. Justice Abbott.) Was it to church or meeting?—To church, my Lord, there being service there on Sunday evenings.

(By Mr. Casberd.) What time in the course of the evening did you return?—I returned about a quarter after nine o'clock.

Was your mother below or above stairs?—Above stairs.

Whom did you find below?—I found Mr. Donnall, my brother William, and Mr. Jordan.

Did the prisoner remain any time below stairs, when you were there?—In the course of the evening, he frequently went up stairs.

Could you collect from him, in what state your mother was at this time?—He gave me to understand that she was still sick, but nothing farther.

What was the nature of the conversation that passed when he was below stairs, to the best of your recollection?—The conversation was generally with respect to shooting and field sports, Mr. Jordan and Mr. Donnall intending to go out a-shooting the next morning.

Do you recollect whether, at this time, the prisoner said any thing about his having administered any medicine to your mother?—I have no recollection of his telling me that he had.

At what time did you go to bed?—It was nearly two o'clock in the morning.

Had the prisoner left the house at that time?—He had not.

(By Mr. Justice Abbott.) You lived in your mother's house?—Yes, my Lord.

(By Mr. Casberd.) Previous to going to bed, had you learned from the prisoner in what state your mother was?—No, sir.

Had you inquired of him?—On one occasion, on his coming down, to a question I put to him, he said she was still sick; I said that if she were still sick in the stomach, there must be something there that ought to be removed, and I recommended giving her an emetic, when he said that gentler means must

be used, and that he had given her something to compose her stomach.

Did you, before you went to bed, go into your mother's bed-room?—Yes, I did.

How soon before you went to bed?—On my way to my bed-room; and I asked Mr. Donnall if he was not going to leave soon, and go to his own house.

(By Mr. Justice Abbott.) Was that before you went to your mother's room?—Yes, my Lord; and before I went to bed, I recommended his going to bed, as he said he was going a-shooting the next morning; he said he should wait half an hour longer, to see the effect of the last pill he had given her.

Was this before the conversation, when you recommended an emetic?—It was after, and just as I was going to bed.

(By Mr. Casberd.) When you went into your mother's bed-room, before you went to bed, was the prisoner there, or did he go with you?—He accompanied me.

What state was your mother in, when you went into her room?—She got up in the bed and reached forward, and intimated that she was going to get out of bed, and requested that the gentlemen might leave the room, when I wished her good night and retired.

Did you leave the prisoner in your house, when you went to bed?—Yes, I did.

And about four in the morning you were awoke?—Yes; I was awoke by Mrs. Jordan and Miss James coming into my bed-room and requesting the key of my shop to get pen, ink, and paper, stating that Dr.

Edwards was in the house, and that my mother was much worse.

Did you get up upon that?—I got up; I was alarmed at the Doctor's being in the house, and at hearing this.

Did you sleep upon the same floor with your mother?—Yes.

Did you at that time see the prisoner?—Yes, sir.

Where did you see him?—I met him upon the platt on the outside of my mother's door; that is, upon the landing place.

Had you any conversation with him?—I asked him his reason for calling Dr. Edwards; and he told me, about three o'clock he got alarmed at the circumstance of my mother's pulse having suddenly dropped, and that he then thought it necessary to call in Dr. Edwards.

Did he leave you then?—Yes, he did.

(By Mr. Justice Abbott.) This conversation was upon the platt, if I understand you?—Yes, my Lord.

(By Mr. Casberd.) Where did you go after he left you?—I went into my mother's room, and found her in a slumbering state.

How soon after did the prisoner return?—I saw him afterwards in the parlour below stairs.

How long was that afterwards?—It might be half an hour.

Had you any conversation with him then, upon the subject of your mother?—I spoke of her drowsy state, which he said was a bad sign, and that it was a further cause for alarm.

Did you afterwards return into your mother's room?—Yes, sir.

She afterwards died?—Yes, sir; she died about eight o'clock in the morning.

Had you apprised any of the family of her situation, before she died, in consequence of which they were able to reach her?—Yes, sir; the prisoner recommended me to call my brother, as she could not live long; I accordingly called Edward, who slept in the adjoining room; I went to Mr. Jordan, and left him to call the other branches of the family, and then returned.

(By Mr. Justice Abbott.) Edward slept in the house, as well as you?—Yes, my Lord.

(By Mr. Casberd.) After the death of your mother, did the prisoner remain in the house, or did he go out?—He remained in the house a short time.

And then he left it?—Yes.

How soon after did he return?—I saw him between ten and eleven o'clock of the morning of the death; perhaps two hours after.

Where was he then?—In the outside parlour in our house.

What did he say?—He then stated that it was necessary a shell should be made, as he was apprehensive the body would swell, and that in consequence thereof unpleasant circumstances might occur.

Was your brother William there at that time?—He was not present, he was in the adjoining room; and I recommended Mr. Donnall to speak to my brother William.

What else did he say?—I went with him into the room where my brother William was, and he then stated the same thing as he had done to me; at which my brother was surprised: upon my brother William hesitating to have a shell made, he (Donnall) said that there was already a discharge from the nostrils, and that she could not possibly be kept longer than Wednesday.

Do you recollect what else he said?—No, sir, I don't recollect any thing else; the shell was thereupon ordered; the following morning, Tuesday, Mr. Donnall came into my mother's house, when my brother William was present, and he (Donnall) said that he was going to Helford or Manackan to visit some patients, and asked if he should call at the church-yard to see how the workmen got on with the vault; my brother said there was no necessity for his calling, as he had given particular directions to Mr. Farley, the Stone-mason employed upon the occasion, respecting it; he said he should call upon his return, as he should have to ride within a mile of the church-yard.

What church-yard was he speaking of?—Mawnan; and he said he would call upon his return, and thereupon left us.

How far is Mawnan?—About four miles and a half.

Do you know how far Manackan is from Helford?—To Helford passage is about six miles, and the parish of Manackan is across the river upon the opposite side, and I understand that, unless the river be crossed, it is a round of about thirty miles to Manackan.

Are Helford and Manackan both upon the other side of the water?—Yes, they are.

(By Mr. Justice Abbott.) If you go to Manackan by Helford passage, do you go within a mile of Mawan?—Yes, I understand that is the case.

(By Mr. Casberd.) What did he say, when you afterwards saw him?—About four o'clock, when I saw him, he said he had been at the church-yard, and had found the men idling; he said that he had put them to work, and got them to remove the earth from the coffin which contained the remains of my father.

Do you recollect his stating any thing about his having been at Manackan?—The following morning, Wednesday, he came to me and said that, in consequence of Mr. O'Brien disappointing him in making a saddle for his horse, he should not go out to see the workmen again; that he had paid 7s. or 10s. 6d. for a horse the day before, and as that was so much out of his vaccinations, he should not go out again.

I wish to know whether, upon the Tuesday or the Wednesday, he said any thing as to being at Manackan?—I understood that he had; upon the Tuesday afternoon, when he said he had found the men idling, he said then that he had been at Manackan.

Upon the following day, the Thursday, do you recollect seeing the prisoner again?—Yes, sir; I saw him in my mother's house; he came in, accompanied by Mr. Jordan my brother-in-law.

Had you, before his coming to the house, received a copy of any letter?—I had, the previous evening.

Did you deliver to him that copy?—I did.

Was Mr. Jordan there at the time?—He was present.

Have you that copy with you?—I have.

Have the goodness to produce it?—(*Witness producing it.*)

(By Mr. Justice Abbott.) You delivered it to Mr. Donnall, and he read it?—Yes, my Lord.

(*Here the anonymous letter alluded to was produced, and read as follows :*)

“ Sir,

“ I shall, without any apology, demand your serious
“ and immediate attention to a circumstance which
“ has excited considerable notice amongst many people
“ in this town ; and, from the fact which I shall
“ mention, I am convinced you will think it necessary
“ to make an immediate investigation. Mrs.
“ Downing yesterday drank tea with her son-in-law,
“ in perfect health ; a short time after, she had violent
“ retchings, which soon after ended in death. She
“ had something of the same kind two or three
“ weeks before, after drinking tea with him.—What
“ I beg you to notice is, the great similarity I am
“ told there is, between what symptoms she felt and
“ what people feel who swallow poisonous corrosive
“ substances ; and also, her having had but one attack
“ like it before, and that, too, when she drank
“ tea with him.

“ To Mr. James Bull, Mayor of Falmouth.”

Whom had you received that copy from?—From Mr. Tippet, Town-clerk of Falmouth.

Did you tell Mr. Donnall from whom you received it?—I spoke of Mr. Bull the Mayor having received an anonymous letter, and I put the copy into his hands.

(By Mr. Casberd.) Did you take notice of the prisoner when he read this letter?—Yes, sir, I did.

What did you observe?—I observed that his hands trembled, and before he had read it through, it dropt from his hands upon the floor; and he said it was a villainous thing, wrote purposely to ruin him, or drive him from the town, and that his practice would be broken up in consequence.

This was upon the Thursday?—Yes, upon the Thursday morning.

Upon what day was the body opened?—Upon the same day.

About what time of the day?—About two o'clock in the afternoon.

You were not present, I believe, upon the opening of the body?—No, sir.

Where were you?—Below stairs in the parlour.

(By Mr. Justice Abbott.) During the operation?—Yes my Lord.

(By Mr. Casberd.) Do you remember seeing the prisoner coming down, from above stairs, into the parlour where you were?—Yes, sir.

Did he state any thing to you, or in your presence, upon the subject of the body being opened?—Upon his entering the room, he said that the stomach was a *little* inflamed, but that the *heart* and *liver* were *perfectly sound*,—which quite satisfied us that all was right;—he also said, that he had no idea Mrs. Down-

ing was so fat upon the ribs; and he held up his finger to shew how fat she was.

How soon after this was it, that your mother was buried?—She was interred upon the Saturday following.

That was the 9th of November?—Yes, sir.

Mr. Justice Abbott—Then you don't examine him as to any thing that happened between the Thursday and the Saturday.

Witness—*There is a particular circumstance I should wish to state.*

(By Mr. Casberd.) You say she was buried upon the Saturday?—Yes, sir.

Did you attend the funeral?—Yes.

Upon your return from the funeral, did the prisoner at the bar come to your house?—Yes.

(By Mr. Justice Abbott.) Did he attend the funeral?—Yes, my Lord, he accompanied us to the funeral.

(By Mr. Casberd.) Did the rest of the family return to the house?—Yes.

Was Edward Downing your brother there?—Yes.

And your brother William?—Yes, sir.

Do you recollect any conversation taking place at this time, the prisoner being present?—Yes, previous to my brother Edward being called to the town-hall.

(By Mr. Justice Abbott.) Did they [the coroner's jury] continue sitting after the funeral?—Yes, my Lord.

Then after your return from the funeral, and when the inquest was sitting, you were going to relate some-

thing that passed?—Yes; Mr. Donnall observed to my brother Edward, in presence of my brother William and myself, that he was not present at the commencement of the tea, and he said, “Edward, you know I was not present, and you had better say you gave the first cup”—meaning the first cup of cocoa.

(By Mr. Sergt. Pell.) He did not say that it was the first cup of cocoa?—No, sir.

Mr. Sergt. Pell (*to the witness*)—Confine yourself to what was said.

(By Mr. Casberd.) What had you been speaking of, before that time?—We had been asking each other if we could recollect who gave the first cup of cocoa; I said positively that I did not give the first cup. My brother Edward said he recollected giving the second cup, but could not recollect any thing about the first.

State what further conversation took place?—Immediately upon Donnall's saying this, my brother Edward left the house to go to the town-hall.

(By Mr. Justice Abbott.) Without giving an answer to Donnall, when he said, “You had better say you gave the first cup”?—Yes, my Lord.

(By Mr. Casberd.) Did Edward go to the town-hall without making any answer to that observation? What did he say before he went to the town-hall?—He said he did not recollect any thing about the first cup, but he recollected the second cup.

(By Mr. Justice Abbott.) You had been talking to one another about who gave the first cup, and the prisoner, addressing himself to Edward, said, “You

had better say you gave the first cup": did he make any answer?—No, my Lord.

Did Edward say he recollected about the second cup before Donnall said that?—Yes, my Lord.

Had he said that in Donnall's presence?—Yes, my Lord.

Edward then went to the town-hall?—Yes; and the next morning, Sunday, Mr. Donnall called upon me again, and spoke of the long examination which he had undergone at the town-hall, and intimated at the same time, that he thought Mrs. Donnall and Mrs. Jordan would be called also;—"Mrs. Donnall and Mrs. Jordan be called," I replied, "why, you know the verdict was returned last night, that my mother died by poison": at which he did not appear surprised; he merely said it was a mystery, after which he left me.

(Cross-examined by Mr. Sergt. Pell.)

I may have mistaken you, but I certainly understood you to say twice, that in the conversation you had with the prisoner upon the Thursday evening, when you were talking about cocoa, your brother Edward said that he had given her the first cup, but did not recollect the second?—(*No answer.*)

Mr. Justice Abbott—You cannot assume that he did say so; I heard very different words.

Mr. Sergt. Pell—We will see whether it be a mistake or not.

Did you say, in the course of that conversation, that your brother Edward had given her the first cup?—No, sir, I did not.

Repeat what Edward did say?—He said that he recollected giving her the second cup, but could not answer for the first; after which Donnall said, “You know I was not there, you had better say you gave the first cup.”

What did Edward say to that?—Nothing.

Are you sure of that?—Yes, sir.

Were you present at the town-hall, when your brother Edward was examined there?—No, I was not.

Mr. Jordan was present when the letter was read?—Yes, sir.

Was the Wednesday evening the first time you had seen any thing of that letter?—Yes, sir.

Or heard of it?—Yes, or heard of it.

Do you happen to know whether your brother-in-law, the prisoner, was getting into practice in the town of Falmouth?—He gave me to understand that he was, and that his practice was much increased.

You cannot state as a fact whether it were or were not, probably; do you happen to know it as a point of fact?—Yes, I understood that he was getting into good business.

From what he told you?—Upon one occasion, he referred to his day-book and turned over a number of pages to shew what he had done in previous weeks.

You had never any difference with your brother-in-law at all, of any kind?—No, sir.

Never of any kind at all, but always upon the best of terms?—No, never any difference at all, but we were always the most intimate friends.

You dined with your mother upon the 3rd of November?—Yes, sir.

What had she for her dinner?—She partook of smothered rabbits.

Smothered with what?—With onions.

Was there any thing else that she had besides?—She had vegetables, potatoes.

Only potatoes; do you recollect any thing else?—I don't recollect.

You remember her eating potatoes?—Yes.

What did she drink, water or beer?—I am not certain.

What was her usual drink?—Beer.

I think your mother was about 65 years of age?—She was 64 years of age.

What was the size of the room in which, upon the 3rd of November, you were drinking tea? is it a small or a large room?—It is a small room.

I believe it is an oblong room?—Yes, it is an oblong room.

How wide do you suppose the room may be? is it wider than this table? (*pointing to the table in court*)—I cannot say exactly; I dare say it is about as wide as from where I am to where you are.

Part of the company sat on one side, and part on the other?—Yes.

You remember Mr. Donnall being called out?—Yes.

Do you happen to know what he was called out for?—After he returned he informed me.

Did you learn for what he was called out?—He said he had been drawing a tooth, I think.

At what period of the transaction was that?—Whilst he was absent do you mean?

When he said that he had been out drawing a tooth?—Just about the time when my mother was leaving the house.

—Do you happen to recollect whether it were before, or after, she took the second cup of cocoa?—I am certain it was after she had drank the first; and I think it was after she had returned her second cup to the table.

You have described that your mother, and Edward, and Mrs. Jordan, were sitting near the wall?—My mother and brother Edward were sitting with their backs near the wall.

So that it must have been with some difficulty that a person could pass behind them?—Yes, sir.

Do you recollect where the bread and butter was put, after your mother was taken ill?—No, sir.

She had not finished her bread and butter, I believe?—I have no recollection of seeing her eat bread and butter with her second cup.

I think you said that she had not finished the second cup?—She returned it before she had finished it.

I think you have stated that you had never heard of this letter till the Wednesday afternoon?—Not till Wednesday evening; the first intimation I had of it was from Mr. Jordan and my brother William, who came to my house to inform me of it; that was upon the Wednesday evening, about eight or nine o'clock: that was the first time I had ever heard of such a letter being sent.

Had you any reason to know that such a letter would be sent?—No, sir.

You considered this letter, when you gave it to him to read, as a sort of intimation that he was more concerned in this business than he ought to have been?—No, sir.

Am I to understand that you had no such view?—I had no suspicion of Mr. Donnall at the time.

That is so, is it?—Yes, sir.

And that you did not give him the letter, with any such impression on your mind?—That is so.

And that he said it was a villainous thing, and that it was written for the purpose of ruining him, and that it might injure him in his business; did you make any observation on that?—It is probable that I said to him, that it was written on purpose.

(By Mr. Justice Abbott.) Do you recollect that you did say so?—Yes, I did say so; I told him that I considered it was a malicious thing.

(By Mr. Sergt. Pell.) I think you stated, that you learnt from the prisoner that he sent for Dr. Edwards?—Yes, sir; and also, that he had called upon him himself.

Pray, do you happen to know whether your sister, Mrs. Donnall, was in the habit of drinking cocoa in the afternoon?—Yes, sir; she had been in the habit of drinking it for a fortnight or three weeks.

Had your mother been in the habit of drinking cocoa at all?—No, not latterly.

(Witness withdrew.)

Mrs. Betsey Jordan (examined by Mr. Sergt. Lens).

I believe you are one of the daughters of the late Mrs. Elizabeth Downing?—Yes, sir.

Did Mr. Jordan and you live in Falmouth?—Yes.

Was your house near to Mrs. Downing's house, your mother's?—Yes, sir.

Do you recollect, in the middle of October, namely, about the 19th of October, meeting Mrs. Downing at the house of Mr. Donnall?—Yes, about seven o'clock; she was there when I came.

Was tea over?—Yes, sir.

Whether she had taken tea there or not, you don't know?—I don't know.

Did you remain there after you went?—About two hours; we supped there.

Do you remember, at any time in the evening, that your mother complained of being unwell?—A short time before supper was brought in.

Can you tell us how she complained, and what she felt?—She was asked to remain and stop supper; but she replied she had no appetite for supper, as she did not feel very well.

Did she go away after that, or did she stay?—She went home shortly after.

You saw no more of her that evening?—No, sir.

Upon Sunday the 3rd of November, do you recollect being at Mr. Donnall's at tea, where Mrs. Downing was?—Yes, sir.

Do you recollect, at any time, a cup of cocoa or two

being taken by Mrs. Downing?—she took two cups of cocoa.

Have you any recollection how she came by the first cup?—I did not see any one give it to her.

Did you yourself give it to her?—No, I did not.

Do you recollect whether she rose from her seat?—She did not during tea time.

Was she near enough to help herself, or to take the cup without the necessity of any body else helping her?—No, she was not.

Do you recollect, after the cocoa had been taken, that she complained of being different from what she had been?—Whilst she was taking the second cup.

Was she taken ill after she had taken the second cup, or before?—It was after she had begun to take it.

And she remained a short time and then went to her house?—Yes, sir.

Did you remain after she was gone?—No, I went with her.

When she got there, she remained a short time below stairs, and then went up to her bed-room; did you go with her up into the bed-room?—Yes.

Did the sickness continue?—She was violently sick by throwing up.

Did that happen more than once?—Yes, sir.

Did you remain the whole of the evening?—Yes.

Was there retching and casting up?—Yes, sir.

Did she ever retch without casting up?—Not in the beginning of the evening; but in the course of the evening there was retching without casting up, and that continued different times during the night.

Did you stay with her all the night?—Yes, sir.

Do you recollect Donnall's coming in?—Yes.

Besides the retching and casting up, had she any other affection of the stomach?—A violent purging.

How soon did that begin?—About eight o'clock.

How long after she had returned to her own house?—About two hours after she had returned.

Did that continue long together, or do you speak of its being violent from the intenseness of it?—It continued several hours.

Did she appear to be getting better, or continue the same?—She became worse.

Did she complain of any thing else?—She complained of violent cramp in her legs.

Was she in bed then?—Yes, sir.

(By Mr. Justice Abbott.) Was she taken out of bed, in order to relieve the cramp?—Yes; with assistance she got out.

(By Mr. Sergt. Lens.) Did the cramp continue upon her?—She had several fits of cramp.

Did that, and those symptoms you mention, continue till Dr. Edwards was sent for?—Yes.

Did any other symptoms occur before Dr. Edwards was sent for?—No, I don't recollect.

Do you recollect Donnall's coming into the room, and being the occasion of Dr. Edwards's being sent for?—Yes, sir.

Do you recollect Dr. Edwards coming?—Yes.

Do you recollect any brandy-cloths being used?—Yes, sir.

When were they used?—Before Dr. Edwards came.

How happened those to be applied?—Mr. Donnall suggested them.

Were they hot?—Yes, they were.

Applied to where?—To her stomach; she complained of a pain in her stomach.

Did she use that term, “A pain in her stomach,” or is it your own interpretation?—“A pain in her stomach” was her own expression.

Was any thing administered not in the way of medicine? was any thing else given?—Tea in the course of the evening.

Once or more than once?—Two or three times.

How came that to be administered; was it her own desire, or was it suggested by any person?—It was her own desire.

Did she give any reason for it?—No particular reason.

There were frequent retching and casting up; was there not a considerable quantity brought off her stomach?—There was.

Between the time you first mentioned, namely, between the 19th of October and the 3rd of November, how soon was she recovered of her first complaint?—About a week.

Was she recovered at the end of a week?—Yes; but she appeared rather weaker.

Upon this Sunday morning, on the 3rd of November, how would you describe her then?—She was in health and spirits.

What became of that which came off her stomach? was it preserved or thrown away?—It was thrown away.

How happened that?—Once Mr. Donnall requested it to be thrown away.

Had any been thrown away before he requested it?—Yes, sir.

Did you happen to observe her feet at all, or was any thing said of her feet?—She complained of coldness in her feet.

At what period of the evening?—Between two and three o'clock in the morning.

What time did Dr. Edwards come?—About four.

These are all the circumstances that occurred?—Yes, sir.

(Cross-examined by Mr. Gifford.)

Do you recollect, upon the Sunday evening when you drank tea at Mr. Donnall's, of his being called out of the room?—Yes, sir.

Do you recollect at what time it was?—In the middle of the tea.

Was it before your mother had a second cup of cocoa?—Yes.

What light was there in the room?—One candle.

Where was that candle?—On the tea-table.

It was a small room?—Yes, sir.

(*Witness withdrew.*)

Mr. Edward Downing (examined by Mr. Gazelee.)

You are one of the sons of the late Mrs. Downing?—Yes, sir.

Were you at Mr. Donnall's on the evening of Sunday the 3rd of November?—Yes.

Did you drink tea there?—Yes, sir.

Were you there before the cocoa was brought up?
—I was there before the cocoa was brought up.

Did your mother take cocoa?—Yes, she did.

Do you know who handed the first cup to her?—
No, sir.

Did you do it?—No, sir.

Do you know who handed the second?—I gave her
the second myself.

Mr. Gazelee—I now mean to examine only as to
circumstances occurring after the funeral.

Mr. Justice Abbott—Very well.

You attended the funeral on the Saturday?—Yes.

When you returned from the funeral, the Coroner's
Jury was sitting?—Yes, sir.

Did the prisoner come to your mother's house?—
Yes, sir.

Who was present with you and the prisoner?—
My brothers William and Samuel.

Be so good as to state what passed on that occasion,
and what the prisoner said?—Mr. Donnall denied to
me that he was present at the commencement of the
tea, and he told me "You had better say you gave
the first cup."

Did you make any answer to that?—No, sir.

I believe you shortly afterwards left the room?—I
went over to the Coroner's Jury.

Do you remember whether, at any time before the
death of your mother, the prisoner said any thing to
you as to your mother's circumstances, and when?—
Mr. Donnall told me, two or three months before my

mother died, when speaking of her money, that she had £600 a-year coming in ; he told me that.

What led to that ? what was the occasion of it ?—He was speaking of Mrs. Donnall's property, and that she had from £150 to £200 coming in ; Mr. Donnall named it to me, and he said that he was getting from £400 to £500 a-year, and that his wife had from £150 to £200 a-year, and that my mother had £600 per year : that was all that passed at that time.

(Cross-examined by Mr. Sergt. Pell.)

Do you know what led your mother to wish you to come to the side of the room where you were sitting ?—It was because my brother Samuel came in.

That must have crowded them a little ?—There was plenty of room.

It was a small room, was it not ?—It was long and narrow.

Was it a small room ?—It was not very wide.

Your mother sat next the fire, and then Mrs. Jordan, and then Mrs. Donnall ?—Yes, sir.

And then, when Samuel came in, your mother desired you to sit on that side of the room ?—Yes, sir.

You were sitting pretty close to your mother ?—Yes, pretty close.

You remember the circumstance of Mr. Donnall striking your arm at tea-time ?—Yes, sir.

Was there any thing particular in his conduct ?—He struck my arm, and part of the tea went over my mother's gown ; I said, " Donnall, what are you

about?" and I took my handkerchief and wiped it off.

Did you observe Mr. Donnall before he came so near to your mother?—I saw him at the table when taking up the bread and butter.

Did he come round the table immediately after that?—Immediately after that.

Where was the candle, on the table?—On the side nearest the door.

There was a fire in the room?—Yes, sir.

I think, when you were in the town-hall, (I do not mean to say that the fact was so,) you represented yourself as having given your mother the first cup of cocoa?—No, sir; I gave the second cup.

Did you not state it at the town-hall, that you gave her the first cup?—No, sir, not to the best of my knowledge.

Am I to understand that, at the town-hall, you never did say that you gave her the first cup of cocoa, or any thing of the kind?—Yes, sir.

Have you never said at any time, that you gave her the first cup of cocoa?—Never to any body.

Not when you were before the Magistrate?—No.

In short, you have always told the same story as you tell to-day, as to that part of the subject?—Never otherwise than I tell to-day, and I never said so to any body.

You did give her the second cup yourself?—I gave her the second cup.

Who poured out the second cup?—Mrs. Donnall.

Who poured out the first cup?—Mrs. Donnall.

Did Mrs. Donnall make the tea too?—Yes.

And pour out the tea?—Yes.

After she had so made the tea, and poured out the cocoa, were the cups put within the tea-tray, or placed on the table, as is done when the tea-tray is small?—There were some with tea in them upon the table, and some upon the tray.

Who drank cocoa that evening?—Mrs. Donnall and my mother.

Do you happen to recollect how many cups of cocoa Mrs. Donnall drank?—No, sir.

You remember Mr. Donnall being called out?—Yes.

How long was he absent?—I dare say ten or twelve minutes.

Who came into the room to call him out?—His servant-boy.

Did he say for what purpose he was called out of the room?—Not that I know.

Don't you recollect that it was for some person who wanted to have a tooth drawn?—I cannot state that I recollect his saying so.

How long was it after any of the party began either to drink tea or cocoa, that Mr. Donnall was called out of the room, can you recollect?—My mother had nearly drank the first cup before Mr. Donnall was called out.

That you have a distinct recollection of?—Yes sir; as soon as Mr. Donnall was called out, my mother gave me her cup to return.

Where was Mr. Donnall sitting, at the moment when the boy came into the room to call him out?—He was sitting opposite to my mother.

Can you tell me what they were talking about, when he was called out? was it the ordinary subjects of the day?—I came in about five o'clock, and my mother joked me about a few things as she generally did.

The conversation was of a general nature?—Yes.

Was there any thing particular about Mr. Donnall at that time?—I did not perceive any thing.

When called out, he got up immediately and went out?—Yes, sir.

Was it a cold or hot day on the 3rd of November?—I cannot tell.

Was there any blaze on the fire?—No, not to my knowledge; but I cannot speak positively.

When your mother was at Mr. Donnall's house, he was in the habit himself of handing the tea-things about?—He never would allow any of the family to do it; he always did it himself; he never would permit any one of the others present to do it.

Have you a recollection with what hand Mr. Donnall held the bread and butter, when he handed it to your mother?—I cannot tell.

Was it not with his right hand?—I cannot say.

In what hand did you hold your cup of tea?—The right hand.

Were you present when Mr. Donnall had the anonymous letter put into his hand, on the Wednesday evening?—No, sir.

When did you first know of the letter?—About eleven o'clock on the Wednesday night, my brother Samuel informed me of it; I had not heard of it be-

fore : it was between ten and eleven on that night ; I cannot speak, to a quarter of an hour.

Do you know the writer of that letter ?—No, sir.

Do you happen to recollect who was the first person that you communicated the nature of your mother's illness to ? do you recollect conversing with various people, as to her situation and the nature of her illness ?—No, sir.

Am I to understand that you have no recollection of it, or that you did not converse with any body about it ?—Not that I know of.

None but the immediate members of your own family ?—When she felt herself unwell I went out, down in the town, as I had to call on a friend, and I informed that friend that she was unwell ; that was all the conversation.

(Re-examined by Mr. Gazelee.)

The first time you went to the town-hall was when you were examined before the Coroner's Jury ?—Yes.

Did you before that Jury state that you handed the first cup ?—No, sir.

You were a second time examined at the town-hall, before the Mayor ?—I was only called upon once, and that was on the Saturday, in the town-hall.

Were you examined on any subsequent occasion ?—No, sir.

At Commins's Hotel were you examined ?—Yes, sir.

Did you on that occasion state that you had given the first cup ?—No, sir.

Do you remember, at that time, that any question

was asked whether you had not, before the Coroner's Jury, stated so?—Mr. Bull, the Mayor, asked me if I had.

Can you recollect what the question was, which was put to you by Mr. Bull?—I cannot exactly say; it was alluding to the first cup of cocoa.

When you were examined at Commins's Hotel, before Mr. Bull, the Mayor, were you asked by any body, as to whether you had before the Coroner's Jury stated that you had given the first cup of cocoa?—Yes, by Mr. Richards.

In what character was Mr. Richards attending?—He was attending as an Attorney for Mr. Donnall.

He put that question to you?—Yes, sir.

Do you recollect what your answer was?—I said that I gave the second cup, but could not recollect as to the first.

(By Mr. Justice Abbott.) That won't be the correct answer; the question he asked of you was, whether you had not said before the Coroner's Jury that you had handed the first cup; what was your answer to that, if you recollect what it was?—No, my Lord, I cannot recollect what it was.

(By Mr. Gazelee) You stated that Mr. Donnall, when he took the bread and butter from the table, handed it to your mother?—Yes, he did.

Did he go the straightest course, or round the table?—He went all round the table, and between my sister, Mrs. Jordan, and myself.

Could he have gone any other way?—There was certainly a shorter way.

(By Mr. Justice Abbott.) Look at that plan, and say whether that be the correct description of the table and chairs in the room? (*handing the plan to the witness*)—Yes, my Lord; it is pretty correct.

Then if that be correct, he might have risen from the table and have handed it to your mother, without going round the table?—He might have gone the short way; but instead of that, he went all round the table.

(*Witness withdrew.*)

Dr. Richard Edwards (examined by Mr. Sergt. Lens).

You are a physician, resident at Falmouth?—I am.

How many years have you been in the profession?—About sixteen years.

Do you recollect being called in, as a physician, to attend Mrs. Elizabeth Downing upon the 3rd of November?—Yes, sir; I was called in between four and five o'clock on the Monday morning.

Were you in the habit of attending her?—Once before, at a distant period.

Several months before?—More than that.

When you came there, and when you were introduced into the room in which she was, what state did you find her in?—I was let into the house by Mr. Donnall; I went into the back room and asked him some questions as to Mrs. Downing's illness, and he informed me she had an attack of Cholera Morbus.

Did any thing more pass that was material, before you went into the room where she was?—He told me she had had a similar attack a fortnight before.

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Cholera Morbus ; did you observe any thing of that kind?—No ; at that time, she had no sickness.

Was her state such as to shew that she had?—There was nothing particular to draw my attention to that being her state ; there was nothing to shew the causes of the disease, at that time.

How long did you stay on that occasion?—I suppose about twenty minutes ; I am not certain as to the time.

Did you learn from the prisoner, whether he himself had given any medicine?—I understood that he had given an opening medicine, and an emetic, a saline draught in a state of effervescence, and, also, a pill, and some opium mixed with the saline draught ; I believe he told me, ten drops of laudanum.

(By Mr. Justice Abbott.) Is that a large or a small dose?—It is a small dose.

(By Mr. Sergt. Lens.) Would that only quiet her?—It was given, he said, to quiet the irritation of the stomach.

Have you ever had occasion to attend a person who had been ill, and who died, of Cholera Morbus?—I never had a patient who died of that disease. There is one circumstance I would mention : before I left Mr. Donnall, I told him that, as the quantity of active medicine in the prescription was small, he had better give it every three hours, instead of four hours as directed in the prescription ; and observed, at the same time, that it was given in order to remove something which I considered to be offensive either in the stomach or bowels.

In the course of your experience, how soon does

Cholera Morbus produce death?—In general, not in less than two or three days; there may be some instances, but I never met with one that produced death in less than that time.

The space of time, in this instance, was fourteen hours?—Yes, sir.

Can you tell me of any instance that Cholera Morbus would produce death in so short a time?—I never heard or knew of any instance of its producing death in so short a time.

In your judgment then, and from what you know since, did this patient die of Cholera Morbus, or not?—Certainly not.

You say you staid about twenty minutes?—About that time.

You then took your leave, having given directions about the prescription, which you took for granted would be administered afterwards?—Yes, sir.

Did you see Mrs. Downing afterwards?—No, sir.

She died at eight o'clock that same morning?—Yes.

How soon did you go again, after you had heard of her decease?—I went on the Thursday afternoon, to examine the body.

When you went there, was it to examine the body as to the cause of the death?—Yes; I was requested by the Coroner to examine the body.

You had heard of the letter that was sent, on suspicion being awakened?—Yes.

Whom did you meet there?—Mr. Donnall.

Was there any other person there?—Soon afterwards, Mr. John Street, a surgeon, came there.

There is another person of the name of Street, a surgeon?—Yes, sir; but this was Mr. John Street.

Shortly afterwards did you go into the room where the body lay?—Yes, sir.

Did any thing pass before?—Nothing particular.

Who went with you?—Mr. John Street and Mr. Donnall; there was no other medical person present.

What did you do?—We took the body from the shell, and placed it on the table.

Who proceeded to operate on the body?—When the things were prepared, such as water, &c., I perceived Mr. Donnall was preparing to operate, with the instruments in his hands, and turning up the cuffs of his coat.

Did he proceed?—No; I told him that he was to have nothing to do with the operation, and I turned to Mr. John Street and asked him to do it.

(By Mr. Justice Abbott.) Did you say any thing more to Donnall than that he was to have nothing to do with the operation?—No, my Lord.

(By Mr. Sergt. Lens.) Did he (Mr. Street) prepare to do it?—He objected to it, as not having been in the habit of operating for a long time.

And in the end, you were under the necessity of doing it yourself?—Yes, sir, with Mr. Street's occasional assistance.

When you opened the body, your particular object was the examination of the stomach?—Yes, it was the chief object of our examination, and we proceeded to do so immediately; we opened it, and examined it, and poured the contents into a basin.

Did you take out all the contents, or only a part?
—The whole of the contents.

What was done with them after they were put into the basin?—We examined that which was put into the basin, with our fingers, in order to ascertain whether any heavy, or gritty, substance had subsided to the bottom.

(By Mr. Justice Abbott.) When you say “we,” whom do you mean besides yourself?—Mr. John Street, my Lord.

(By Mr. Sergt. Lens.) Donnall did not interfere?
—No, sir.

In a few minutes, you examined the bottom?—Yes.

Did you find any deposit?—No deposit of any heavy substance.

When you had done that, what did you do next?—Before we particularly examined the contents of the stomach, we examined the state of the stomach, and found it inflamed.

Was it a general or partial inflammation?—It was rather partial; or, what we call stellated, or in stars, in different parts of the stomach.

Were there many? were there several, or only one, or were there two or three?—There were many, in different parts of the stomach.

Was there any thing else you discovered?—On examining the villous, or internal, coat of the stomach, we found it softened, and, in some parts, nearly destroyed by the action of some corrosive substance. The stellated inflammation was on the nervous coat, but was very visible through the villous coat.

Are we to understand that the villous coat is, in general, not so soft? what should its natural state be?—It should have been much more firm than we found it.

In what way did you examine the villous coat?—With the nail of my finger; and it easily came off.

And in its proper state, would it come off easily with the nail of a finger?—No, sir. We examined particularly the under part where the fluid was.

Was it generally in that soft state?—The greatest part of it was so.

(By Mr. Justice Abbott.) The under part is where any thing in the stomach would rest and would touch?—Yes, my Lord.

(By Mr. Sergt. Lens.) Did you observe any particularity in the appearance?—The blood-vessels of the stomach were rather in a more turgid state than they should be naturally. We also examined the liver and lungs, and both appeared in a sound state.

Did you examine the heart?—I do not recollect; I am not quite certain.

Do you think that any thing affected it?—I did not examine it, that I recollect.

Did you give any directions as to what was put into the basin?—After examining the contents of the stomach, which were put into the basin, we poured them into an earthen jug.

And your attention was particularly drawn to that in the basin?—I placed the jug upon a chair, on which there was a cushion; and I took particular care that, as the seat was elastic, it should rest against the

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Could it be produced by any thing short of an active poison in any time, or within so short a time?—I think not.

Did you proceed, then, to see whether there was any thing to be discovered of an active nature?—I then turned to the contents of the stomach, which I had placed in a jug.

By Mr. Justice Abbott.) Then your back had been to the jug?—It was behind, or rather on my left side.

(By Mr. Sergt. Lens.) When you had turned round, did you find it in the same situation?—Yes, I found it in the same situation, but I was surprised to see it empty.

Did you express that surprise to any body?—I expressed it to Mr. Donnall, and asked him what had become of it, and he told me he had thrown it into the chamber utensil; I observed to him that he ought not to have done so, as I had before said that it must be carefully preserved; and I observed to him also, that it would give me a great deal more trouble, as I must evaporate a larger quantity of water than I should otherwise have had to do, to get at the object of my search.

Can you tell us what the quantity was in the basin, and what the quantity was afterwards?—It was a little more than half a pint, originally.

And what was the quantity when mixed with the other water?—Nearly two quarts. The chamber vessel was clean when I came into the room.

What had occasioned any used water in it?—I threw

some of the water into it, in which we had washed some part of the intestines.

What was then done with it?—As soon as we had finished the examination, I left it to Mr. Street's charge, who told me he would take care of the contents of the stomach.

You did not see them again till they were at your own house?—No, not till they were brought there in two bottles. I recollect putting this chamber utensil further under the bed, in order that it might not be disturbed, and desired that no one should touch it, or go into the room, during our absence, Mr. Donnall still remaining. Mr. Donnall had been out of the room once or twice.

But was he there when that direction was given?—Yes, sir.

Did you afterwards, and when, proceed to examine the contents of the two bottles?—It was two days before I had finished that examination.

How soon afterwards did you see it in the two bottles in your house?—On the same day that we examined the body.

Did you upon examination trace any thing of the sort that you looked for?—I examined it in different ways, by chemical tests, and they all shewed the presence of arsenic; if necessary, I will state the method I followed.

In consequence of the experiment, you detected it to be arsenic?—Arsenic in solution, but not in substance.

How did you detect it?—I tried it by chemical reagents that would produce a certain colour when arsenic was present.

In general, upon that part of the subject, what is your opinion of the cause of the death of this lady, from your observation on what you took away and examined afterwards?—From the appearance of the stomach and the examination of its contents, I have not the least doubt that it was produced by poison.

Independently of that appearing to be arsenic, what is your opinion of the general appearance, so as to judge of the cause of the death?—I have no doubt that the death was produced by the effects of arsenic.

Could you have formed any judgment independently of the analysis, or is this latter part necessary to your judgment?—I should have believed, from the examination of the stomach and intestines only, that the death had been produced by some corrosive substance.

Should you have been of opinion, without any analysis, but from the general appearance of the stomach, that she had died of poison?—I should certainly have been of that opinion.

But not arsenic in particular?—No; but some corrosive substance.

Could that corrosive substance have been produced in the body itself, or must it have been administered from without?—It is not possible that it should have been produced internally; it must have been introduced from without.

(Cross-examined by Mr. Sergt. Pell.)

I think you said, that you found this lady's pulse frequent and fluttering?—Yes, sir.

The medicine you prescribed for her was of a purgative nature?—Yes.

How often would she have had to take that medicine, between the time you gave that prescription and the time when she died?—I gave her the prescription for every four hours, but I left instructions to give it every three hours.

Is that the prescription? (*shewing it*)—Yes, sir.

Be so good as to mention what are the materials—or first, what is the nature of that complaint, called Cholera Morbus?—It is generally produced in hot seasons, by bile getting into the stomach, and causing irritation in the stomach and bowels.

Is not cramp sometimes a symptom of a violent bilious attack?—Cramp often comes on in violent irritations of the stomach and bowels, whatever may be the cause of that irritation.

Is not cramp a certain symptom of a violent bilious attack?—It very often accompanies it.

(By Mr. Justice Abbott.) Cramp of the legs generally arises from those causes?—Yes, my Lord; most frequently from a violent action of the stomach.

(By Mr. Sergt. Pell.) Might it not arise from a bilious disorganization of the stomach?—Yes.

This complaint of Cholera Morbus may proceed to a very painful degree?—It may kill.

Is it a very painful complaint?—It is a very distressing complaint.

As far as you have had an opportunity of visiting patients, do you know it to be a painful complaint?—It produces cramp, which is painful, and it certainly produces pain in the stomach and bowels, by its violent action.

Do you apprehend that a purgative medicine would be a proper medicine for a person in that situation, supposing it to have been Cholera Morbus?—There were no symptoms of Cholera Morbus when I saw Mrs. Downing; but, from what I heard of her complaint, I imagined that there was something offensive either in the stomach or bowels, which ought to be evacuated.

Were ten drops of laudanum a proper thing to give her?—It is sometimes given to allay the irritation of those parts.

Might not a powerful administration of laudanum be of use in Cholera Morbus?—Seldom, I think, in large quantities, but is given in small doses frequently, if the case be urgent.

I think you have stated, that the result of your chemical experiment was not the production of any gross arsenic, or arsenic in substance?—Not arsenic in substance.

And you judged from the application of chemical tests?—Yes, sir.

Be so good as to state what the chemical tests were which you used?—The first was with the sulphate of copper, which is the common blue vitriol. If you put a little carbonate of potash into water containing a solution of arsenic, and then add the sulphate of copper in solution, a *green* precipitate will be produced; whereas, if no arsenic be present, a *blue* precipitate would be formed: that was the first test which I used.

What was the second test?—The second test was with the nitrate of silver, or common lunar caustic,

(these are the same substance, but the lunar caustic is the more common term). Put a little carbonate of potash into water containing arsenic in solution, and dip the end of a cylindrical piece of lunar caustic into the water, a *yellow* precipitate will be produced; whereas, if no arsenic be present, a *white* precipitate would be formed. Those were the chief tests which I used; but, in order to ascertain whether any thing which had been taken into the stomach, or was naturally contained in it, would alter the appearances produced by the tests, so as to make the result uncertain, I tried other experiments. I concluded that bile formed a part of the contents of the stomach; I therefore procured some, and mixed it with water, and subjected it to the same tests in the same manner, and I found that the appearance of the precipitate was not the same as if arsenic were present; I therefore inferred that bile, in the quantity in which it may occasionally be found in the stomach, would not alter the conclusion I had drawn from the result of my first experiments.—I was informed that Mrs. Downing had eaten onions; I boiled some in water in the usual way, and after pouring off the water in which they were boiled, I poured some boiling water on them, and left them stand for some hours; I then ascertained what effect this water would produce on the tests, and was satisfied that it would not, when the experiment was carefully made, produce the appearance of arsenic.—I also understood that some tartarized antimony had been given; I tried the tests with a solution of that substance, and the precipitate had not the appearance which arsenic, if present, would put on.

Do you happen to know who was the first person who discovered these tests?—I believe Mr. Hume discovered that with nitrate of silver.

Do you know Dr. Marcett?—Yes, I know him, from his writings, to be a very clever man.

You don't happen to know whether he first discovered this mode?—No.

Do you know of any mode of managing any fluid substance, in which arsenic has been mixed, so as to produce arsenic in substance?—By evaporating the solution containing arsenic, and by exposing it to heat in a close vessel, you will produce it in a white solid state; and by mixing the residuum of a solution of arsenic with an inflammable substance, arsenic will be sublimed in its metallic state by the same process.

The result of that experiment would not have deceived any one in the world?—It would not, certainly; but there was such a small quantity left, after my other experiments, that it was not tried.

It would have produced it, so that any person would know the thing to be arsenic?—Certainly.

You mix the fluid, in which the arsenic is, with an alkali, when you seek to re-produce the mineral in substance? you mix the solution with an alkali, don't you?—No, there is no occasion for an alkali.

You put it in solution, and expose it to heat?—If the arsenic be in solution, it must be evaporated; and by doing that which I have before stated with the residuum, it will be produced in its metallic state.

With respect to the other tests, do you consider those as conclusive and infallible?—Yes, in the way I used them.

This business, of course, must have made a great bustle in Falmouth, when people first talked about it?—Yes, sir.

When were you examined before the Coroner?—Upon the same day of the funeral, and on the Thursday preceding. I begged the inquest might be put off for two days, till I had examined the contents of the stomach; and it was put off for two days.

You were examined, I believe, before you made the analyses?—I remember that I was examined on the Thursday, as to the appearances I found on the stomach.

Can you recollect whether you did or did not state, before the gentlemen of the Jury, that the appearances of the stomach were such as proceeded from a natural cause?—No, certainly not.

You did, however, desire that it might be postponed two days, that you might make some experiments on the contents of the stomach?—Yes, sir.

Are persons, particularly women, of an elderly time of life more subject to the attack of Cholera Morbus, than people who are young?—There is very little difference.

The age of the person does not predispose him or her more to that complaint, than a youthful person?—No, I don't think it does; it is rather the contrary.

You say, there was nothing in the chamber vessel but water that had been poured in, with which you had washed some parts of the stomach?—I poured the water in myself, at a time when I believe it was empty.

Mr. Sergt. Pell—So that the effect of it would be only to give more trouble in evaporating a greater quantity of fluid, it having been made more.

(Re-examined by Mr. Sergt. Lens.)

You have been asked several questions about the nature of Cholera Morbus; do you change your opinion, in any respect, as to this not being Cholera Morbus that occasioned the death?—I do not.

You have been asked particularly about a third test that you did not make use of; I wish to ask you how it happened that you did not resort to that test, as well as to the others?—There was not sufficient left, so as to ascertain it accurately.

So that that last test would not be so proper as the others?—The tests I used would detect a more minute portion of arsenic, and therefore were more proper for that occasion, as I found that there could not be much arsenic in the fluid, from the appearances produced by these tests.

And that was the reason that you resorted to those tests, instead of this last test which you did not use?—Yes, that was the reason, when I found by the other tests that the arsenic was not in a large quantity.

Had the quantity been larger, how would you have proceeded?—I should have resorted also to the last, if there had been a larger quantity.

(By Mr. Justice Abbott.) The portion detected was very small?—Yes, my Lord.

Do I understand you to say that it was so small that you did not think it fit to try the other test, or that of

evaporation?—That was my reason. I accounted for the smallness of the quantity of poison in this way—from the frequent throwing up, and the purging, which would carry off large portions.

Suppose the contents of the stomach had been suffered to remain in the jug as you had put them, unmixed with any quantity of fluid, would it have been more easy to perform the experiment, and securing its effect?—There would be the same result, but a difference in regard to the length of time that it would take to evaporate.

After having tried and made use of these tests, would it have been practicable still to have tried the test by evaporation and sublimation?—I did not do it, as the quantity of fluid left was so small, and I did not conceive that a small quantity would do. If I had evaporated the whole of it in the first place, I might, perhaps, have detected arsenic in substance; but I had made use of a great quantity, in trying the other tests, which I threw away.

That would not have been proper to have tried again, that which had been tried before?—It would not have been so easily done.

The application of the lunar caustic in the one instance, and the sulphate of copper in the other, would not have prevented the other operation?—It would not have been so correct.

Do you happen to know that the prisoner, Mr. Donnall, ever desired that any other test should be applied?—I don't recollect that he did; but some one came to my house, and requested me to give him a

part of the contents of the stomach to try it, but I had none.

If any application was made, it was too late?—Yes, my Lord.

Was any person with you, when you tried these tests?—Mr. Street, a brother of the gentleman I have spoken of, was with me.

That is, Mr. Samuel Spyvee Street?—Yes, my Lord.

Any other person, at the other time of the experiments?—Mr. John Street was present at the other.

(Witness withdrew.)

Mr. John Street (examined by Mr. Gazelee).

You were a surgeon?—Yes, sir.

How long have you been retired from that profession?—About five years.

Was any application made to you, to attend the opening of the body of Mrs. Downing?—Yes, sir, there was.

Who applied to you?—Mr. Donnall.

Upon what day did he apply to you?—Upon the Thursday.

To assist him in opening the body?—Yes, sir.

What time did you go to the house?—Mr. Donnall called upon me about half-past one o'clock, upon the Thursday, and I went to the house about two o'clock, or half-past two.

Whom did you find there?—Mr. Donnall and Dr. Edwards.

The operation was performed by Dr. Edwards?—
Yes, and I assisted him.

Do you remember the circumstance of the contents of the stomach being taken out and put into a jug?—
Yes, I do.

What became of the jug, or was any thing said about it?—Dr. Edwards poured the contents of the stomach into a jug; and requested it should be taken particular care of, addressing himself particularly to Mr. Donnall, who was very near him.

After that, did you proceed to examine the stomach itself?—We did.

Describe the appearances upon the stomach?—
After opening the stomach, I perceived it to be very much inflamed, and remarked it to Dr. Edwards, and also to Mr. Donnall, who was upon my right hand, that the inflammation was very extensive, and the blood-vessels very turgid; there were stars, and the villous coat very highly inflamed; that was the appearance of the stomach; we then examined the Duodenum, we found that very much inflamed; the Jejunium and Illium we found but slightly inflamed; the Cæcum was the next part that we opened, that was inflamed but slightly.

(By Mr. Justice Abbott.) Those are the parts of the body connected with the stomach?—Yes; after that, we opened the chest to examine the heart, liver and lungs, and we found them in a perfect state.

(By Mr. Gazelee.) From those appearances, could you form any judgment as to what was the occasion of the death of the deceased?—From the appearances,

I should attribute the death to some corrosive matter taken into the stomach.

You found that the contents of the jug had been removed into a chamber utensil, did you not?—Yes.

That chamber vessel was afterwards removed further in under the bed?—Yes, sir, by Dr. Edwards.

Did you and Dr. Edwards go out of the room together?—We did, and Dr. Edwards remarked that he wished nobody to go into the room when we were out of the way; he said this to Mr. Donnall, “ You’ll observe that nobody is to go into the room while we are away.

(By Mr. Justice Abbott.) Did you leave the prisoner in the room?—No, my Lord; we all went down together.

(By Mr. Gazelee.) Dr. Edwards and you went over to the town-hall together?—Yes, sir.

How long did you remain there, till you returned?—About three or four minutes.

Did the Jury come back with you?—Yes, sir.

Did you again go to the town-hall?—Yes.

How long might you be absent the second time?—About ten minutes.

At the expiration of those ten minutes, did you return to the room for any, and what purpose?—I returned to the room to do what was necessary to Mrs. Downing, and to put her into the shell.

Did you do any thing then?—I did; after putting Mrs. Downing into the coffin, I told the servant to get me some bottles, which she procured, and I then poured the contents of the chamber utensil into a jug, and

then into two bottles ; they filled both bottles ; they were two quart bottles.

Did you find any person in the room, when you came back ?—No person.

What became of the bottles ?—I told the servant to deliver them to Dr. Edwards.

What is her name ?—Susan Weeks.

Mr. Gazelee—Her name is now O'Brien, having been since married.

Did you see her go with them ?—I saw her within a hundred yards of Dr. Edwards's house with the bottles.

Were you present when any of the tests spoken of by Dr. Edwards, were tried by that gentleman ?—Yes, I saw him try some of them.

(By Mr. Justice Abbott.) Which of them did you see ?—I am not chemist enough, to say ; but I saw him try some, and he told me before what would be the effect.

(Cross-examined by Mr. Gifford.)

When you poured the contents of the chamber vessel into a jug, did you find the chamber vessel in the same state as when you left it ?—I think it was.

(Witness withdrew.)

Dr. Edwards recalled, (re-examined by Mr. Justice Abbott.)

I wish to ask you this question, whether arsenic may be administered in a fluid state ?—Yes, my Lord ; it may.

The usual way is in grains or in powder, but it may be administered in a fluid state?—Yes, my Lord; it may be dissolved in water and administered.

May such a solution be made very strong?—If it be dissolved in hot water, it will contain a large portion; but if in cold water, it will not hold more than in the proportion of one-eightieth part of the water.

When you obtain a solution of arsenic, what quantity will be contained in the hot water, or what quantity of that water would be sufficient to occasion death?—I cannot say exactly.

Two or three tea-spoonsful?—Very little more than that, I should suppose.

Two dessert-spoonsful?—I dare say it would.

A table-spoonful?—Yes, my Lord. If an alkali be dissolved in the water first, it will hold a larger proportion in solution; but, if dissolved in the common way, I should think a table-spoonful would be sufficient to produce death.

(*Witness withdrew.*)

Susan O'Brien, late Susan Weeks, (examined by Mr. Sergt. Lens).

Do you remember being sent with two bottles by Mr. Street, to be carried any where?—Yes, sir.

To where?—To Dr. Edwards's.

Did you carry them?—Yes, sir.

To whom did you deliver them?—To Dr. Edwards's servant.

Did you deliver them in the same state as Mr. Street delivered them to you?—Yes, sir.

(Cross-examined by Mr. Sergt. Pell.) —

You lived with Mrs. Downing?—Yes, sir.

She was taken ill upon the Sunday night?—Yes.

Do you recollect her being taken ill upon the Thursday before?—Yes, sir.

Where had she been upon the Thursday before, when she was unwell?—At her son's, Mr. John Downing, drinking tea.

At what time did your mistress go to Mr. John Downing's?—After dinner, but I don't remember the particular hour.

Do you know what she had for dinner that day?—I don't recollect.

What time did she return home?—About seven o'clock.

Did you know what occasioned her coming home?—I was not in the house when she returned.

How long after she had returned, did you come in?—In about half an hour.

Did she say she was unwell?—She said she felt herself unwell, when I returned.

Did she take any thing for it?—She took a cup of coffee.

Did you learn from her, what sort of illness it was that she had?—Pain in her stomach.

Do you happen to know whether the coffee she took relieved her?—She went up stairs after drinking it, and I heard nothing more of her.

At what time?—About eight o'clock, or between eight and nine o'clock, after drinking the coffee.

What was your mistress's usual time of going to bed?—About ten or half-after ten.

(Re-examined by Mr. Sergt. Lens.)

Do you remember, after what you have mentioned of Mrs. Downing, whether after the coffee she ate any thing?—She ate a small slice of bread and butter after that.

Did she repeat the compliment, or was that the whole of it?—That was the whole.

(*Witness withdrew.*)

Ann Blight (examined by Mr. Gazelee).

You are a servant of Dr. Edwards?—Yes, sir.

Did you receive the two bottles from the last witness?—Yes, sir.

Did you afterwards give them to your master?—Yes, I carried them into the parlour and put them upon the side-table.

(*Witness withdrew.*)

Mr. Samuel Spyvee Street (examined by Mr. Gazelee).

Do you understand chemistry?—I have attended chemical lectures.

What are you?—A surgeon.

Were you present at the examination Dr. Edwards speaks of?—Yes, on the Saturday when he examined the contents of the bottles.

Did he make the experiments in presence of the Jury?—No, he made them in his own house.

What was your judgment from those experiments?—In my judgment I conceived that there was the presence of arsenic.

(Cross-examined by Mr. Sergt. Pell.)

Where do you reside?—At Penryn.

Are you much acquainted with chemical tests?—I have not been, of late years; I cannot say that I am.

Do you know a person of the name of Susan Weeks, not the one examined?—There was another of that name, whom I saw in the coach yesterday.

Do you know her?—Yes, I do know her; she was taken ill in the coach yesterday, and was not able to come on.

What was her complaint?—Her complaint was in the chest;—but she may have arrived 'ere this: Mr. Pearce promised that he would send her on, if possible.

(*Witness withdrew.*)

Mr. William Downing (examined by Mr. Gazelee).

You are one of the sons of the late Mrs. Downing?—Yes, sir; I am the eldest son.

Did you see her upon the Sunday morning, 3rd of November?—Yes, I did.

You were with her at church that morning?—Yes, I was, and came with her from the church, in company with my brother Samuel.

In what state of health did she appear to be then?—In good health and spirits.

She died about eight o'clock next morning?—She did; rather before eight than afterwards.

Do you remember, sometime after her death, the prisoner and Samuel Downing coming into the room to you?—Yes, sir.

Your mother died at eight o'clock on Monday morning?—Yes, sir.

Did they come to you a short time after her death that morning?—Yes, between ten and eleven o'clock.

What was said?—My brother Samuel informed me that Mr. Donnall had been speaking to him about a shell being made, to put the body in; I observed to Mr. Donnall that I did not see the necessity of it, and he informed me that he thought it was necessary, as the body was likely to swell, and that there was already a discharge from the nostrils.

Did he say any thing more about it, or did any thing more pass between your brother Samuel, the prisoner, and yourself?—Not then.

Had you occasion to go up into the room where the body of your mother was, that day?—I went up shortly afterwards.

Did you see any thing remarkable?—I saw no discharge from the nostrils; I particularly looked.

Did you at any time afterwards look to the corpse, previous to the funeral?—Always once a-day; sometimes two or three times a-day.

There was no appearance of that taking place?—There was no appearance; there was no swelling of the body, nor any discharge from the nostrils or mouth.

In consequence of what had passed, you gave directions that a shell should be made?—Yes, sir.

Did you see Mr. Donnall the next day?—Yes, I did; he called on the Tuesday, and said he was going to Helford or Manackan, and asked if he might call at Mawnan church to see how the workmen were getting on; I observed that I did not see the necessity for it, as Mr. Farley the mason would call in the evening, to say how the men went on with the work.

What else passed?—He said that he would call, on his return from Manackan, as he should have to ride within a mile of the church.

What time of the day was that?—Between nine and ten o'clock.

Did you see him afterwards in the course of that day?—He returned in the evening between four and five o'clock, and informed me that he had been at Manackan, and on his way back had called at the church, and that he had found the men idle, and had put them to work.

That was upon the Tuesday?—Yes, sir.

The body was opened upon the Thursday?—Yes.

When did you first hear that the body was to be opened?—On that same day.

Was the prisoner present when it was communicated to you?—Yes, sir.

State what passed when it was proposed to open the body?—I found him at my mother's house in the morning, about ten o'clock; he had a paper in his hand; Mr. Jordan and my brother Samuel were present when I entered, in conversation with him respecting the anonymous letter which was sent; and I asked what should be done; Donnall said he did not know;

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step returning from my brother's room, when I looked and saw Mr. Donnall crossing the plat to go into my mother's room.

Was the door of the tea-room open that you could see?—Yes; and in a short time, I heard a hasty step again returning towards my brother Samuel's room, and I looked towards the plat and saw Mr. Donnall returning.

(By Mr. Justice Abbott.) Upon this occasion you saw the prisoner going towards Samuel's room?—Yes, my Lord, and I instantly heard a splash, as before, of some liquid passing from one vessel into another; it was not like a stream, but like something hastily poured out. I heard the step returning towards my mother's room, and saw Mr. Donnall crossing the plat towards her room, and in a short time I heard the step of some one coming towards the tea-room, who proved to be Mr. Donnall; he came into the tea-room; he held a case of instruments in his hand, which he carried to the further end of the room: I did not see what the case contained.

(Cross-examined by Mr. Sergt. Pell.)

This was your brother Samuel's room that he went into?—Yes, sir.

Did you go into that room afterwards?—Not that day, but I might a few days after.

Who had the care of that room?—The servant of the house.

You did not go into that room to see what it was that occasioned the noise?—No, I did not; but I heard a splash.

Did any body go into the room to see what it was?—No; my brothers Samuel and Edward went into the room sometime afterwards.

How long afterwards?—In the course of twenty minutes or half an hour after.

(By Mr. Justice Abbott.) Did you tell them what had happened?—I did not, my Lord.

Do you know where Dr. Edwards and Mr. Street were at the time when you heard him go into that room you mention?—They were at the town-hall.

(Witness withdrew.)

James Veal (examined by Mr. Sergt. Lens).

You keep the ferry-boat, upon the river which separates Falmouth from Helford and Manackan?—Yes, sir.

Do you recollect, upon the 5th of November last, whether the prisoner, Donnall, crossed in your boat?—Not to the best of my knowledge.

Who is employed besides you?—A servant-man, who constantly goes in the boat; but when I have particular business, I hire another man.

Can you say that you were upon that day in the ferry-boat?—I was in the boat, to the best of my knowledge and recollection.

(Witness withdrew.)

Mr. Robert Jordan (examined by Mr. Sergt. Lens).

You are the husband of Mrs. Jordan the daughter of the deceased, Mrs. Downing?—Yes, sir.

Were you drinking tea at Donnall's, upon the 19th of October?—No, sir.

Do you recollect having a conversation with the prisoner after the death?—Yes; it was late in the evening, about ten o'clock, and after some general conversation, he introduced some observations about the property, and he remarked that the children were left independent; and talked about his marriage settlement.

(Cross-examined by Mr. Sergt. Pell.)

Were you present when the anonymous letter was read by the prisoner?—Yes, sir, I was present at the time.

Did you observe any thing particular about him?—No, I did not observe any thing particular about him when he was reading the letter.

You know that the prisoner, Mr. Donnall, was anxious to have a second experiment upon the contents of the stomach?—Yes; but there was not sufficient.

When was that conversation?—Upon the Wednesday subsequent to the funeral: I called upon Dr. Edwards.

At the request of Mr. Donnall?—No, sir; it was at the request of the parties, who were anxious that it should be so; and when I called, it was ascertained that there was not sufficient to do it.

(By Mr. Sergt. Lens.) Do you recollect where you were, when that paper [the anonymous letter] was read?—I was sometimes looking out at the window, and sometimes at him.

Who handed the paper to him, or who put it into his hand?—Mr. Samuel Downing.

(*Witness withdrew.*)

Miss Mary Ann James (examined by Mr. Gazelee).

I believe you had lived with Mrs. Downing before her death?—For eight years.

Were you at home upon the evening of the 19th of October, when she returned from Mr. Donnall's?—Yes, sir.

At what time in the evening did she come in?—Between nine and ten; when she came in, I was in the parlour.

What happened?—Whilst in the parlour, I heard some one violently retching; I went immediately into the kitchen and found it was Mrs. Downing.

And you found her in the kitchen?—Yes, sir.

Did you give her any thing?—I gave her some hollands and water with a little peppermint water.

I believe you led her up to bed?—I did.

How was she when she was in bed?—She retched at intervals.

(By Mr. Justice Abbott.) And vomited as well?—Yes, my Lord.

How long did that continue, before you sent for any body?—About twenty minutes.

(By Mr. Gazelee.) Whom did you send for then?—Mr. Donnall.

How was she after he came?—She continued retching and throwing up until about twelve, and had a violent cramp.

Had she occasion to get several times out of bed?
—Yes, sir.

(By Mr. Justice Abbott.) From purging?—From purging, and the cramp.

(By Mr. Gazelee.) When did she come down stairs again?—She came down the following day, after the family had dined.

How long did she continue unwell?—She kept her parlour three days.

Did she keep the house after that?—Yes; for some days after that, she did not go out: I have no recollection of her going out till the Thursday previous to her death, namely, on Thursday the 31st of October.

Had you not heard her complain till the 19th of October?—Not till that day.

What was her general state of health?—She generally enjoyed a good state of health.

Do you know where she went to, upon the Thursday?
—She went to her son's, Mr. John Downing's.

At what time did she go out, upon the Thursday?
—I don't recollect.

Was it before or after dinner?—After dinner.

Were you at home when she returned?—Yes, sir.

What time did she return?—About seven o'clock.

Did you hear any complaint from her after she returned?—None.

Where were you when she returned?—I was in the shop.

Where did she go to?—I did not follow her; I don't know where she went.

She passed through the shop?—Yes, sir.

Did you see any thing more of her during that night?—Yes, sir, between nine and ten o'clock, I saw her.

Where did you see her between nine and ten?—I then saw her in the parlour.

And you heard no complaint from her?—No complaint.

Do you recollect what time she went to bed?—About half-past ten.

Did you hear any complaint from her after that?—No, I have no recollection of any.

Do you remember her going out, upon Sunday the 3rd of November?—I recollect seeing her in the street going to church, leading by Mr. Samuel Downing; I had breakfasted with her, and left her immediately, and did not return till the evening.

You were not of the party at Mr. Donnall's?—No.

(Cross-examined by Mr. Gifford.)

You recollect her returning upon the 19th of October, you say?—Yes, sir.

Do you recollect her saying that she had taken some cream as a present to her daughter, which was used with the coffee?—Yes, sir.

(By Mr. Justice Abbott.) Do you recollect if she eat any supper upon the Thursday evening, after her return from her son John's?—No, she did not; I asked her if she was going to take any supper, and she said she had been in the kitchen and had taken a cup of coffee, upon her return.

(Witness withdrew.)

Dr. Edwards recalled, (re-examined by Mr. Justice Abbott).

Did the body of the deceased swell at all, before it was opened?—No, my Lord, it did not.

Was there any discharge from the nostrils, or any symptoms of putrefaction?—None at that time; and as to the discharge from the nostrils, I did not observe any.

In your judgment, could there be any thing in the appearance of the body, which could lead a medical man to say that it was necessary to procure a shell immediately?—I should think not.

In case of death by Cholera Morbus, does putrefaction take place early?—I never observed it.

Mr. Justice Abbott—Then you don't know it, either one way or other, to say how that is.

(*Witness withdrew.*)

Mr. Peter Perry (examined by Mr. Sergt. Lens).

I believe you attend at the Falmouth Bank?—Yes.

Look at that paper handed to you, and say whether you recollect Mr. Donnall calling upon you with that paper, and tell us if that be his hand-writing, the name subscribed? (*being shewn a bill*)—Yes, it is.

It bears date the 7th of November; have you any recollection that that was the day he came there and gave you that bill to discount?—We gave him notes for it, but did not charge him with interest; we gave him the amount of it in notes, upon the day it bears

date: his servant, upon the following day, brought £25 (notes) out of the £50, and had bank notes for them.

Was that same sum paid back by him into your bank?—There was only £25 exchanged, which was done upon the following day. He gave that bill.

You furnished him first with country notes, and then they were brought back and exchanged, in part, into bank of England notes?—Yes, sir.

(Witness withdrew.)

Arthur Williams (examined by Mr. Sergt. Lens).

You are a Constable at Falmouth?—Yes, sir.

Do you recollect going to Donnall's house, to apprehend him?—Yes, between four and five o'clock in the afternoon.

Were you able to meet him there, and upon what day?—Upon the 14th of November, the Thursday after the funeral.

It was the Thursday after the Coroner's Inquest?—Yes, sir.

When you went to the house, did you meet with him?—Not the first time.

Did you in the course of that day, or in the evening, execute your warrant upon him?—Yes, sir.

What time of the night was it?—I had an intimation that he was in the house.

What time of the evening was it when he came out?—About twelve o'clock at night; he was in a room with his wife.

(By Mr. Justice Abbott.) You went there at four o'clock in the afternoon and inquired for him, and did not find him at home, what did you then do?—I went away, and came back about six, and could not find him then.

(By Mr. Sergt. Lens.) Did you stay, or go away and return?—I went away and returned again, and did not find him then; I returned four times before I could take him upon the warrant: at last, the Revd. Mr. Hitchins came out and said, that Mr. Donnall would surrender himself quietly and peaceably.

Did he come after that?—No, sir.

How long after did he come?—Four hours after.

How did he come?—He came out of the room, and we took him.

(Witness withdrew.)

Mrs. Elizabeth Downing (examined by Mr. Gazelee).

You are the wife of John Downing, one of the sons of the late Mrs. Downing?—Yes, sir.

Do you recollect the deceased Mrs. Downing drinking tea with you upon Thursday the 31st of October?—Yes, sir.

Do you happen to recollect at what time she came?—She came about three o'clock.

At what time did she go away?—A little before seven o'clock.

In what state of health did she appear to you to be?—She appeared perfectly well.

Did she complain during the time she staid with you, or when she went away?—She did not.

Do you happen to know whether she went away earlier upon any particular account?—She went away earlier, on account of my servant's going to church that evening; I had but one servant, and there was no one to take her home but that servant.

Upon the 14th of November did you go to Mr. Donnall's house?—Yes, sir.

Mrs. Donnall was not then very well?—No, she was not.

About what time did you go?—Between two and three o'clock.

How soon after you were there did you see the prisoner?—I believe in about an hour and a half, or two hours.

Where did he come to you?—He came into Mrs. Donnall's bed-room, where I was sitting.

He staid but a little while?—He asked how I did, and went out again.

Did Mr. Hitchins, the clergyman, come there?—Yes, sir.

At what time did he leave you?—About half-past seven, or eight o'clock.

Did the prisoner come into the room after that time?—Yes, a little time after that.

Describe in what manner he came into the room, and what passed?—When he came in, he appeared very much agitated; I did not know that he was in the house.

Where did he come from?—He said he came from the adjoining room.

Did he make any other observation to you?—He said, "They are come to take me."

Did you ask him any questions when he came into the room, or soon after he came?—I don't think I did.

Did Mrs. Donnall ask him any thing?—Yes; she asked him how he was so dirty, and he replied that it was in trying to get up the chimney.

What happened after that?—He made several attempts to escape, and at last, he said he would give himself up.

And that was about twelve o'clock, was it not?—It was about eleven o'clock.

And you left him there?—Yes, sir.

(Witness withdrew.)

Mr. Sergt. Lens—That is the case on the part of the Crown.

(Mr. Justice Abbott then intimated to the prisoner, that if he wished to withdraw before he said any thing in his defence, he might do so. The prisoner accordingly retired for a short time, and upon his return into court, he was addressed as follows, by)

Mr. Justice Abbott—Robert Sawle Donnall, you have heard the testimony that has been given, and this is the time for you to make your defence: whatever you have to say in your defence, now is the time to state it.

Prisoner—May I read it?

Mr. Justice Abbott—If you please.

(The prisoner then proceeded to read from a written paper, the following, as his defence.)

THE PRISONER'S DEFENCE.

My Lord, and Gentlemen of the Jury,—I entreat your attention for a short time, while I submit to your consideration, a few remarks as to the heinous offence for which I stand indicted—a charge, which involves at once both my character and my life. Although I have had continual reports circulating against me, I entreat you to banish them from your recollection, in considering this awful subject. The crime, of which I am accused, is one of which I am perfectly innocent; it is a crime most revolting to my nature, and in direct contradiction to every action of my life.—I rely with entire confidence on the Court, being convinced that Justice and Mercy are peculiarly the characteristics both of Judge and Jury, and being confident that you will consider my case with the utmost impartiality,—and, consequently, that I shall receive that verdict, which will convince the world that I do not merit to be accused of that charge which has been made against me.

Mr. Justice Abbott (*to the prisoner*)—You may hand that paper in.

(*The prisoner accordingly handed in the written Defence, and his Counsel proceeded to call and examine the following witnesses in support thereof.*)

EVIDENCE FOR THE DEFENCE.

Mary Coombe (examined by Mr. Sergt. Pell).

Did you live as servant with Mr. and Mrs. Donnall, upon the 3rd of November last?—Yes, sir.

How long had you lived with them?—Seven months.

With whom had you lived before you went into their service?—Mr. Donnall's father and mother.

With whom do you live now?—I have been, since this affair, with Mr. Donnall's father and mother.

At the time this affair took place, what was the state of Mrs. Donnall's (your mistress) health?—She was unwell then.

What was she in the use and habit of taking in the afternoons?—She took cocoa.

Who made the cocoa?—I did.

Where did you get the cocoa from? where was it deposited? where was it usually kept?—In the kitchen.

Who prepared the cocoa upon the 3rd of November, in the afternoon?—I made it.

Do you remember who carried it into the room?—I did.

How much did you make that afternoon?—I should suppose about a pint and a half.

How long was it after you took the cocoa into the room, that the things were taken away?—I cannot say.

Did you take them away?—Yes, sir.

Was that after Mrs. Downing went away?—Yes, it was.

Tell me if you recollect, first, whether any cocoa was left in the cocoa-pot?—Yes, there was.

Where was that pot put, when you brought it out of the parlour?—I carried it into the kitchen.

How much might have been left in the cocoa-pot?—There might be half a pint; I cannot speak to the quantity.

Do you recollect whether any cocoa was brought out from the parlour in any thing, besides that which was in the pot?—Yes, there was some in a tea-cup.

What quantity of cocoa might there have been in the tea-cup?—About half a cupful.

Do you remember whether or not, in that tea-cup or in the saucer belonging to it, there was any thing besides that cocoa?—Yes, sir.

What was there?—There was a piece of bread and butter in the saucer under the cup.

Do you know what was done with that half cup of cocoa?—I drank it.

When did you drink it?—As soon as I brought the waiter into the kitchen.

What was done with the remainder that was left in the pot?—It was warmed next morning for mistress's breakfast, and she took it, and part I took, and part was given to the washerwoman.

Did you ever perceive any ill effects from the cocoa?—No, sir; none in the least.

Do you remember Mrs. Downing coming to your mistress's upon the 19th of October?—Yes, sir.

What had she on the 19th of October?—She had coffee in the afternoon.

Who made the coffee?—I did.

Did any body else drink any of the coffee?—Yes.

Who did?—The boy and me.

What is his name?—William Thomas; he and I partook of part of that coffee.

He is here, is he not?—Yes, sir.

(Witness withdrew.)

William Henry Thomas (examined by Mr. Gifford).

I believe you lived with Mr. Donnall on the 3rd of November last?—Yes, sir.

You recollect Mrs. Downing and some of the family drinking tea that afternoon?—Yes, sir, I do.

Whilst they were at tea, do you recollect any person coming for your master upon the Sunday?—Yes, sir.

Do you recollect, on that day whilst they were at tea, any person coming to your master's house?—Yes, sir.

Who came?—Susan Weeks.

For what purpose?—She came to have a tooth drawn.

Did you let her in?—Yes, sir.

Where did you shew her?—Into the surgery.

Did you then go up stairs to apprise your master of it?—I went into the parlour.

Did you call him out?—Yes, sir.

Did he go into the surgery to the woman?—Yes.

I believe you did not go into the surgery with your master?—No, sir.

How long did he remain there?—To the best of my recollection, about a quarter of an hour.

Do you recollect where he was when you went into the room?—No, sir.

Was he sitting down?—I don't recollect.

(*Witness withdrew.*)

Susan Weeks (examined by Mr Sergt. Pell).

Do you remember going to Mr. Donnall's house on the 3rd of November?—Yes, sir.

To get a tooth drawn?—Yes, sir.

And he drew you a tooth?—Yes, sir.

How long might you have staid altogether, from the time you went in till he had drawn the tooth?—About ten minutes.

(*Witness withdrew.*)

Dr. Adam Neale (examined by Mr. Sergt. Pell).

I believe you are a physician at Exeter?—Yes, sir.

Have you, in the course of your medical experience, been called upon to attend cases of Cholera Morbus?—Yes, frequently.

From what cause, in general, does Cholera Morbus arise?—It generally arises from putrid bile collected in the intestines, which is thrown off by vomiting, and diarrhœa, or purging.

Is it a disorder which is in its nature fatal?—It is the most acute disease known in Great Britain.

What do you mean by the term 'acute'?—I mean by the term, acute, a disease which runs its course in the most rapid manner.

What should be the usual course of attack of Cholera Morbus as to duration, supposing the patient ultimately died of it?—It very frequently kills the patient within twenty-four hours, and if neglected, or improperly treated, it kills the patient in a much shorter period.

What should you esteem a reasonable symptom of a person of the age of 64 or 65 having this complaint? what should you expect to find in a person with this complaint?—Constant vomiting and purging, attended with pain in the stomach and cramp in the legs.

In that state of the disorder, what should you prescribe?—I should prescribe, that the patient drink plentifully of any warm fluid, such as mutton-broth or tea, and then I should give a large dose of opium.

Supposing you were called in to attend a woman with the symptoms you have mentioned, whose pulse was frequent and fluttering, what would you prescribe?—I should then give her a large dose of opium, and I should repeat it, at intervals, until the retching, vomiting, and diarrhoea ceased, or till she felt better.

I shall not trouble you, nor my Lord, by going through the particular circumstances which Dr. Edwards has spoken to, but merely ask you, had you the pleasure of hearing his evidence?—I had.

Did you hear distinctly the description he gave of the appearance of the stomach, after it was opened?—I did.

To what cause should you, independently of other circumstances, have attributed those appearances?—To no cause but the disease.

(By Mr. Justice Abbott.) What disease?—To the disease of Cholera Morbus.

Do you mean to say that they are indications of nothing else?—No, my Lord.

They are indications of that disease as well as others?—Yes, my Lord.

(By Mr. Sergt. Pell.) Would Cholera Morbus have that appearance?—I think so.

(By Mr. Justice Abbott.) Did you ever see the body of a person opened, who had died of Cholera Morbus?—I have not, my Lord.

(By Mr. Sergt. Pell.) Have you had, in the course of your practice, occasion to make experiments in chemistry?—Yes, sir.

Did you hear the first experiment, or test, which Dr. Edwards stated he had made, namely, that by the sulphate of copper?—Yes, sir.

In your judgment, is that test an infallible test of arsenic being present in solution?—By no means.

Have you heard of the other test which he tried, namely, that by means of the nitrate of silver, or the lunar caustic?—I have.

What is your judgment of that species of test as to arsenic?—That it is equally fallible.

Now as to the test with bile?—No [meaning, that test is not infallible]: from the presence of phosphoric acid, the same yellow-coloured precipitate will be thrown down, if some lunar caustic be put into a solution of phosphate of soda.

What do you esteem to be a complete test of arsenic being held in solution in any complicated body?—I don't conceive that there is any complete test, but the evaporating of the solution, and reproducing the arsenic in its metallic state.

Have you made any experiment upon any mixture, through the medium of nitrate of silver, or the lunar caustic, in which onions have been infused?—Yes, with a decoction of onions.

Be so good as to state particularly what that experiment was which you made?—I made it within the last five days; I made a decoction of onions, and added the carbonate of potash together with the lunar caustic, and a pale yellow cloud was produced; the liquor became opaque, and a cloud, of a colour between white and yellow, or opal, or precious stone colour, was produced.

(By Mr. Justice Abbott.) Through the whole body?—Yes, my Lord; I then varied the experiment and added to it the phosphate of soda.

(By Mr. Sergt. Pell.) After this opaline cloud had been produced, what other effect had it?—It precipitated gradually; there was a precipitation.

(By Mr. Justice Abbott.) This dark shade, or yellowish white cloud, precipitated to the bottom?—Yes, my Lord.

Was that of the nature of what you call precipitation?—Yes, my Lord.

(By Mr. Sergt. Pell.) Well, sir?—I added some solution of phosphate of soda, and a solution of lunar caustic, and I then obtained a yellow precipitate.

(Cross-examined by Mr. Sergt. Lens.)

I understood you to say that you never did, in point of fact, examine the body of a person that died of Cholera Morbus?—I never did; I only conclude, as a matter of science, that such would be the appearance; but I never did, in point of fact, open the body: I only conclude that that would be the sort of inflammation.

Now, as to this decoction of onions, would one taking rabbits smothered in onions be said to be taking a decoction?—The juice of the onions would be conveyed into the stomach: perhaps, it would be as well to explain to the Court what is my motive?

(By Mr. Justice Abbott.) We don't want that; we only want to know whether a decoction be the same as that which would be conveyed by eating boiled onions?—The same fluid would be conveyed into the stomach.

(By Mr. Sergt. Lens.) That is, a decoction of onions?—Yes, sir.

But the greatest part is drawn off by the preparation?—Some must infallibly remain. The experiment I made was, by cutting an onion into various pieces, and putting it into two wine-glassesful of water, and upon that decoction my experiment proceeded—or by pouring boiling water over it, or boiling it for two minutes, and then I tried the experiment both with the liquid and with the boiled onion, and the effects were the same.

So that the small quantity that remained in the one

case, had the same effect as the extract in the other ?
—Yes, sir.

That which is used at table must be considerably weaker than that sort of preparation ?—A considerable part, but not the whole, otherwise the flavour would be all gone.

(By Mr. Justice Abbott.) In proportion as the strength and flavour is diminished, so is the strength of the juice diminished ?—Yes, my Lord.

(By Mr. Sergt. Lens.) Do you mean to say that that mode [the test by evaporation] is absolutely an infallible mode of detecting arsenic ?—I speak by the practice of all physicians, both at home and abroad, that it will be positively detected by that mode to be present ; but I don't mean to say that Dr. Edwards's experiment won't do it also ; but the phosphate of soda will produce the same thing.

Of course, if necessary to inquire as to the fact of its presence, whether it be pursued by one or the other of these modes, you would inquire into collateral circumstances ?—Certainly ; but if you speak chemically, I should conceive none decisive, without the reproduction of the metal.

In your judgment, this is the best test that can be resorted to ?—I don't speak from my own judgment merely, but from acknowledged experiments.

Is there any considerable portion of the phosphate of soda in the bile ?—Phosphoric acid exists in all the fluids of the human body, in the blood and other fluids ; I cannot say to what degree it may exist, but it certainly does exist in these, and in the bodies of all animals.

Does it exist to such a degree in the human bile,

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minated with iron, or be not pure; if it be mixed with the carbonate of potash in solution, a yellow precipitate would be produced, and the two colours will produce green. I should also state that in mixing the solution, if the sulphate of copper should be added to a decoction or an infusion of onions, with a small quantity of the carbonate of potash, a green precipitate is also produced; I have tried it repeatedly.

Supposing a person to have been eating boiled onions for dinner, and in the course of the night to have been vomiting or purging to a violent degree, would any particular portion of the juice of the onion be left in the stomach?—Not in the stomach, in a great proportion; but I think, that enough may remain to *effect* the chemical test.

Notwithstanding the mixture of the onions with other food, there is sufficient to *effect* that in some degree?—Yes, my Lord. *affect*

(By Mr. Sergt. Lens, through Mr. Justice Abbott.) You have stated that you have seen many bodies opened, in which the stomach was in a state of inflammation, and in the state described by Dr. Edwards, and yet no actual poison present in those cases; what has been the state of the villous coat of the stomach in such cases? have you attended to that?—No, I have not.

Then you have only observed as to the inflammation and so on, but not to the villous coat of the stomach?—Exactly so, my Lord, and not to the villous coat of the stomach.

(Witness withdrew.)

Dr. Daniel (examined by Mr. Gifford).

You have been for many years a physician at Exeter?—Yes, sir.

And of considerable practice there?—Yes, sir.

Have you in your course of practice attended many persons attacked with Cholera Morbus?—I have.

What are the symptoms attendant upon that disorder?—Usually considerable vomiting, affections of the bowels, purging, pains of the stomach, great thirst, and cramps or spasms of the legs.

Where you find a patient violently attacked by those symptoms, what would be the medicines you would administer?—I should undoubtedly direct full doses of opium, to remove the irritation, and to check the discharge.

If you found a patient with a frequent and fluttering pulse, should you so administer?—Most undoubtedly.

Have you heard the symptoms which Mrs. Downing is described to have had the evening before her death?—Yes, sir.

May I ask you whether those be the symptoms of Cholera Morbus?—They certainly are the symptoms of Cholera Morbus.

(Cross-examined by Mr. Gazelee.)

Are these the symptoms of Cholera Morbus exclusively?—No, sir; they are symptoms of arsenic, or any poison.

(By Mr. Justice Abbott.) Within what period of

time does Cholera Morbus usually produce death?—Within my experience, I have seen it nearly fatal within fourteen hours.

Within what time have you known it fatal?—I have never known it fatal; I have known a patient in imminent danger within fourteen hours, but he recovered.

In what way does that disease usually shew itself? does it begin all at once, when the person is in good health, or gradually?—I have known it rather sudden, after an illness of an hour or two.

Have you ever known an instance of a person in good health, eating a hearty dinner, and then sitting down to tea, taken instantly with vomiting and purging in that way described?—I have seen a case very similar to that.

When you say very similar, will you be good enough to explain that a little more?—It occurred in my practice eight years ago, to see a gentleman who was seized with sickness and nausea about five or six o'clock in the afternoon; the sickness and nausea continued increasing till one or two in the morning, and I was desired to see him; and from two to four o'clock I considered him in such danger that I had no hopes.

That does not apply to my difficulty; I want to know what the state of health of that patient would be—that is, whether he would be troubled with a languor or illness, which a person does not very well understand; or whether that person would be, just before his being so seized with it, in perfect good health?—That gentleman whom I mentioned, had

been delicate in his health, but had had no positive complaints.

Cholera Morbus proceeds from bile?—From bile and corrupt humours.

Will they collect all at once?—They will shew themselves collectively within a very short period of time.

(By Mr. Gifford.) I believe you knew the prisoner at the bar, when attending the Hospital at Exeter?—Yes, sir.

Had you an opportunity of seeing him frequently?—Occasionally.

Did you know his character for humanity and tenderness?—He always appeared to me to have rather an unusual share of humanity and tenderness; and such was the character which he held in the Institution.

(Witness withdrew.)

Mr. John Tucker (examined by Mr. Sergt. Pell).

You are a surgeon living at Exeter?—I am.

And a member of the Royal College of Surgeons?

—Yes, I am.

You have heard the symptoms and circumstances first described by Dr. Edwards and Mr. Street?—Yes.

From the different facts which both those gentlemen have spoken to, as to the state of the stomach of the deceased when opened, what disorder should you have supposed that person to have died of?—From some inflammation in the stomach.

What disorder of the human frame, in your judgment, would be likely to produce such appearances?—Hernia, Cholera Morbus, and idiopathic inflammations, or inflammations from unknown causes; that is, when we find those appearances of the stomach, where we can assign no causes.

Now, supposing a person to have had violent retchings and purgings, accompanied with a pain in the stomach, and accompanied with such appearances as these in the stomach, if the body had been opened, to what causes would you attribute it?—To Cholera Morbus, if I had not detected Hernia.

(By Mr. Justice Abbott.) You mean to say that if you had found the stomach in the state described by Dr. Edwards, you would ascribe that to Cholera Morbus?—Yes, my Lord.

(By Mr. Sergt. Pell.) You have heard it stated in evidence what the plan was that Mr. Donnall pursued, when he administered medicine to Mrs. Downing that night?—I have, sir.

Was that the right or the wrong one?—It was partly right, and partly wrong.

In what respect was it right?—In the exhibition of opium.

In what respect was it wrong?—In giving any thing that would increase the irritation that already existed.

Have you seen the prescription which Dr. Edwards wrote that night?—No, I have not; but I would wish to see it—(*here the prescription alluded to was shewn to the witness*).

Now, supposing a person to have retchings and purgings for several hours, and that you found these attended with frequent and fluttering pulse, in that state of the illness what should you have prescribed?—I should have prescribed diametrically opposite to the prescription of Dr. Edwards; I should consider that prescribed by Dr. Edwards as adding weight to a porter's back.

Mr. Justice Abbott (*to the witness*)—Don't speak metaphorically; you are speaking just now of a gentleman of experience and respectability: I don't wish you to conceal your opinion, but only to speak it in different language.

(By Mr. Sergt. Pell.) You should have pursued a method diametrically opposite, you say; now what is the course pursued by that prescription?—There was irritation already existing in the bowels, and that prescription, I conceive, would tend to increase that irritation.

Besides tending to increase the irritation; in your judgment, what other effect would be produced by it, in that state of the person?—There was considerable debility or exhaustion, and I should think *that* would increase that debility and exhaustion.

What should you have given?—I should have supported the patient, and given opium in large doses.

Have you had an opportunity of examining many bodies after death?—A great many.

I will ask you, did it ever in the course of your practice happen to you to examine a body that had died of Cholera Morbus?—I attended a patient, but I can state the reasons why I did not do so.

Don't state the reasons why you did not. Then you never did open any body that had died of Cholera Morbus?—Never.

You have opened bodies after death?—Yes, sir, a great many.

In cases of mere accident, where death has been produced by violent injury arising from accident, have you ever had occasion to ascertain the state of such a body as that?—I have.

How long ago?—Eight or nine years ago.

What was the accident that occasioned the death?—A fractured skull.

How long after the death was the body opened?—It was either upon the second or the third day.

What was the state of the stomach of that person?—Highly vascular, which would lead any one unaccustomed to the complaint, to mistake it as arising from inflammation.

Now explain what you mean by the terms 'highly vascular'?—The congestion of numerous blood-vessels.

Is there any thing as to the state of the hardness or softness of the coats of the stomach, upon which any judgment can rest?—I should suspect that, as it is inflamed, the coats of the stomach would be thickened and soft; for as the inflammation takes place, the parts increase in size.

Have you examined the bodies of soldiers, or of any description of persons, who have died of that complaint?—Yes, I have.

What would be the state, with respect to inflammatory appearances in the stomach, of those subjects?

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when added to any liquid or fluid containing arsenic, will throw down a green precipitate?—Yes, it will have that effect; and I have made that experiment.

Have you made any experiment in order to ascertain whether any green precipitate would be thrown down by sulphate of copper, when applied to any other solution than that of arsenic?—I have tried it with an infusion of onions and animal matter.

(By Mr. Justice Abbott.) What was the result?—A green precipitate resembling that which would have been thrown down, if arsenic had been present.

(By Mr. Sergt. Pell.) Have you known the prisoner many years?—A great many years.

Were you with him as a fellow-student?—We were fellow-students at the same public institution, and under the same preceptors for surgery.

During the whole course of your knowledge of him, what has been his general character, as to tenderness of disposition and humanity?—His attention, his kindness and humanity, have always been such as they ought to have been in public institutions.

What was his character as to these points?—It stood high in my estimation.

What was his character as to tenderness and kindness?—He was excessively tender and humane.

(Cross-examined by Mr. Sergt. Lens.)

Did you happen to attend, when Dr. Edwards was the chemical lecturer at St. Bartholemew's Hospital, in London?—I was a student in the Borough, at St. Thomas's, and Guy's.

Then you did not attend yourself, when Dr. Edwards was the chemical lecturer at St. Bartholemew's?—No, I did not.

Do we understand that you made those experiments previous, or since this circumstance happened?—Both previous to, and since this melancholy circumstance; and particularly that with the nitrate of silver; and I thought it one of the most delicate, at the time I made it.

(By Mr. Justice Abbott.) That is the lunar caustic?—Yes, my Lord. When I first made the experiment, about three years ago, I found it the most delicate test of arsenic.

What do you mean by the most delicate test of arsenic?—That is, the smallest portion would be detected by it.

(By Mr. Sergt. Lens.) You found that at first?—Yes; but I have since discovered its fallacy; and it was pointed out by the same means which discovered its delicacy as a test, because it is now ascertained that something else will produce the same appearances.

You have mentioned what?—Yes, any alkaline phosphates.

(*Witness withdrew.*)

Dr. Joseph Collier Cookworthy (examined by Mr. Gifford).

I believe you are a physician at Plymouth?—I am.

You have been present during the course of this trial, and have heard the examination of Dr. Edwards?—I have.

You have accordingly heard the tests that he applied

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have acted upon it ; yet I by no means think (and I speak from the experience of others), that the appearances stated to have existed, were such as *only* to denote the presence of arsenic.

Have you known the prisoner at the bar long?—
Yes, sir.

How long?—I only knew him at school ; we were educated together at the Exeter Free Grammar-school.

At that time, what was his character for humanity?—It would be difficult to say what attaches one school-boy to another ; but I can say conscientiously——

That is not the question. What was his character as a school-boy?—That is a question which is difficult to answer—not that I mean to imply that there was any thing to the contrary of a good character, for I mean to say that he stood high—he was respected by his school-fellows. We slept together in the same dormitory ; and I remember now with pleasure, notwithstanding the time that has transpired, the intimacy that then existed.

(Cross-examined by Mr. Gazelee.)

You said that nothing but the reproduction of the arsenic would satisfy your mind as to the presence of it?—It would not ; and I am borne out in that belief by the best authorities in the country ; nothing short of that would satisfy my mind in swearing to its presence.

(By Mr. Justice Abbott.) You said that the same results would follow from other compounds?—Yes, my Lord.

What other compounds would give the same result with the lunar caustic?—Phosphoric acid.

And what with the sulphate of copper?—Understanding that the deceased had died after eating a hearty dinner of rabbits and onions, I cut a large onion into slices, and took a slice of raw meat, and put them into the same vessel, and poured rather more than a pint of warm water upon the mixture, with the view of making an infusion; I allowed it to infuse for some hours; I then took a quantity of the liquid or infusion so prepared, and I applied to it the same tests:—first, the subcarbonate of potash in solution, I then added the sulphate of copper in solution, the two tests which I understood Dr. Edwards had used.

And what was the effect produced?—A green precipitate was instantly formed.

Was that experiment then complete?—It was, my Lord.

Any thing else?—Yes, my Lord: with another portion of the liquor I tried this other experiment;—I put in some subcarbonate of potash in solution, and I then added the subnitrate of silver, or lunar caustic, and a yellow precipitate was produced.

Is there any thing farther you would wish to say, as to those experiments?—Yes, my Lord; I used the same tests as I understood Dr. Edwards had used.

(Witness withdrew.)

Mr. Samuel Luscombe (examined by Mr. Sergt. Pell).

You are the Surgeon of the Exeter Hospital?—

Yes, sir.

How long have you been in that situation?—For fifteen or sixteen years.

During the course of that time, you have had an opportunity of examining many bodies?—I have.

Have you heard Dr. Edwards give his evidence to-day?—I have.

From the account which he has given, what would be your judgment as to the cause of that death, it being added that the person who died had violent retchings and purgings?—I should consider that those violent retchings and purgings had exhausted her, and had caused the death.

Putting out of your view those violent affections of the stomach, could you account for the cause of the inflammation?—I could not, unless from discovering some poison in the coats of the stomach at the time.

Have you known, in the course of your practice, many instances of Cholera Morbus?—I have known a great many.

What do you consider to be the immediate cause of Cholera Morbus?—A redundancy of bile and humours upon the stomach.

If inflammation be found upon the stomach after it is opened, what appearance would it put on?—The internal coats of the stomach would be very red in various parts, and the colour very florid; but in the course of two or three days, it would become more dark.

That is, it would have a stellated appearance?—I never opened the body of a person who had died of Cholera Morbus.

How long have you known Mr. Donnall?—Between seven and eight years.

During the whole course of your knowledge of him, what has been his general character as to kindness of heart?—So much so, that I always paid attention to him, and was interested in regard to him, as he was always so attentive to his superiors, mild in his manners, and always attentive and kind to his patients.

(Witness withdrew.)

Mr. Joseph May Ward (examined by Mr. Gifford).

I believe you are a medical gentleman resident at Fowey, near the town of Falmouth?—Yes, sir; I am a surgeon resident there.

Mr. Donnall served his apprenticeship with you?—He did, and was with me four years.

During the time he resided with you, what was his character for humanity and tenderness?—Humane, charitable, sober, and honest; to give an instance of his tenderness—I have known him plunge into the sea, at the risk of his own life, to save a fellow being.

(Witness withdrew.)

Mr. William Carne (examined by Mr. Gifford).

I believe you are a merchant resident at Falmouth?—Yes, sir.

How long have you known the prisoner at the bar?—Since 1802, or about fourteen years.

You have since that time known him at Falmouth?
—Yes, sir.

What has been his general character for tenderness and kindness?—I have always considered him to be a man of the strictest integrity, and also a man of humanity and kindness.

(*Witness withdrew.*)

Mr. John Bennett (examined by Mr. Sergt. Pell).

Do you know the prisoner at the bar?—I do.

How long?—For four years, when he was with Mr. Ward.

What character is he entitled to, as to humanity and tenderness of disposition?—That he was a kind-hearted, amiable man; and he bears that character throughout the towns of Falmouth and Fowey.

(*Witness withdrew.*)

Mr. William Brown (examined by Mr. Gifford).

I believe you are an attorney, resident at Fowey?
—Yes, I am.

Do you know Mr. Donnall the prisoner?—Yes, sir.

For how long?—For ten years; during the time and ever since he served his apprenticeship with Mr. Ward.

What has been his general character for humanity and kindness?—A mild, humane, good, and kind man, and by which character he gained the respect of all the principal inhabitants of Fowey.

(*Witness withdrew.*)

Mr. Nicholls (examined by *Mr. Sergt. Pell*).

Do you live at Fowey?—Yes, sir.

Do you know the prisoner?—Yes, I have known him for many years.

He attended your family?—Yes, sir.

What has been his character for tenderness of disposition?—He was always very civil and kind to me, and I have always considered him as a good and kind-behaved gentleman.

(Witness withdrew.)

Mr. Comer (examined by *Mr. Gifford*).

You live at Fowey?—Yes, sir.

Do you know *Mr. Donnall*?—Yes, very well.

He attended your family?—Yes, sir.

During the time you knew him, what has been his character for tenderness and humanity?—Very good, ever since I knew him; I never knew him otherwise than kind and humane.

(Witness withdrew.)

Mr. Sergt. Pell—Here we close the examination of witnesses on behalf of the prisoner.

(At half-past five o'clock, the whole of the evidence being closed, the Jury were allowed to withdraw for a short time; and, upon their return, they were addressed as follows, by Mr. Justice Abbott.)

CHARGE TO THE JURY.

Gentlemen of the Jury,—This is an indictment against the prisoner, Robert Sawle Donnall, charging him with the wilful murder of Mrs. Elizabeth Downing, widow, effected by administering to her the poison called Arsenic;—arsenic is the name of the poison mentioned in this indictment, but I should inform you, that if, in the result of this inquiry, you should be of opinion that Mrs. Downing died of any other species of poison wilfully administered by the prisoner, it would be the same thing as if it were the poison named in the indictment. That observation was not improper to be made to you,—although, perhaps, with a view to this inquiry, it is not very material; because, from the evidence adduced to shew the deceased died by poison, it certainly fixes upon arsenic being the particular poison used.

In the result of this trial, there are two very important questions for your consideration; the first is, did the deceased die of poison? If you be of opinion that she did die of poison, then arises another question, and one equally material to the prisoner with the first—namely, whether from the evidence you be satisfied that that poison was administered to her by him, or by his means? If, on the other hand, you should not be of opinion that the deceased died of poison, then there is no occasion to consider the other question;

for if she did not die of poison, then the prisoner did not do that which is alledged, and is not guilty.

I shall now proceed to consider those parts of the evidence which apply to the one question, and to the other; but I should premise, that there are some parts of the evidence which appear to me equally applicable to both, and those parts are what relate to the conduct of the prisoner during the time of the opening and inspection of the body; his recommendation of a shell, and the early burial; to which may be added the circumstances, not much to be relied upon, relative to his endeavours to evade his apprehension;—but before I detail to you the evidence that applies to those two questions, I will state to you the evidence first given, which is that of Gabriel Abrahams.

You will observe that, as the prisoner is accused of the wilful murder of the mother of his own wife, those who conduct the prosecution have, in order to point out that it was he who committed that crime, endeavoured to shew something of a motive which might lead him to the commission of so great and enormous offence, and it is for that purpose that Gabriel Abrahams was called.—He says, “I have been for some time resident at Falmouth, and I know the prisoner, who has also been for some years resident at that place, as a surgeon and apothecary there. I had occasion, early in the year 1816, to learn from him the situation of his circumstances, when an application was made by him to me for a loan of the sum of £11, which he said he wanted to pay some taxes; and upon the 26th of February, he again applied for £50 for some other

purposes, as he said he was going to get married, and that, consequently, the money would be repaid. I was not agreeable that he should have the money, and he requested my wife to solicit for that money, saying that it would be either the making of him or the ruin of him; he said he was going to be married to Miss Downing in a fortnight or three weeks, and that the money was to be paid soon after his marriage. I accordingly lent him the money upon that occasion; and upon the 22nd of May, another application was made for £50, which, with £14 he had when I was absent from home, made the whole amount lent him £125. I believe he was married about three months afterwards; and after that, I made several applications to him for repayment of the money; he said I should have the money very soon; I made several applications—I believe the last application I made was about three weeks before Mrs. Downing's death; I stated that as the money had been unpaid beyond the time of promise, I wished him to pay it; he said he could not make it convenient; I then requested him to get a friend to pay it for him; he said, no, he did not know any, but he might have the money from Mrs. Downing, but he did not like to lay himself open to her, as he might by and bye be injured by it, if he could not have it. I said he must get it somewhere else; and he desired me not to be in a hurry, for that the money would be had very soon, giving as a reason that his mother-in-law, Mrs. Downing, would not live long, as he suspected she was in a bad state of health; and that the money would be paid between that time and Christmas;

so that I did not make any further application.—On the day previous to his apprehension, I requested to have some further security, as I understood he would be apprehended, and he called in the evening previous to it, but nothing was spoken as to the money, nor any thing farther than that I asked him as to the circumstances of the Inquest, and as to throwing away the contents of the stomach; I asked him how he came to do that, and he said he did not think it of any consequence.”

The latter part of this witness's evidence does not apply to the same subject as the first.—Now it appears from what further passed at the time of his marriage with his wife, the daughter of the deceased, that her fortune, which was about £3000, was not paid into his (the prisoner's) hands, but was in some way secured for her use by a settlement. The object of this evidence is to shew that the prisoner was at this time distressed for money; and as Mrs. Downing, his mother-in-law, was known to be a woman possessed of considerable property, namely, about £14,000, that was talked of by him and other members of the family; and it is stated as a circumstance calculated to lead you to suppose that the prisoner was induced to commit this crime, by the urgency of his affairs that was pressing upon him.

I don't think, gentlemen, that you should attach any weight, or give effect, to the particular expression that he is said to have used, namely, that Mrs. Downing would not live long; for it would be too much to say from that circumstance that he then contemplated

her death, as debtors are apt to hold out any thing to induce their creditors to believe that they are secure. The motive, therefore, that this evidence is in any degree calculated to impute to the prisoner, is certainly very slight to induce him to the commission of so great and heinous a crime as that of murder ; but certainly, gentlemen, you are aware, and experience tends to prove to you, that great and enormous crimes have been sometimes committed upon very slight original causes ; and therefore, the consideration for you is rather, whether upon the other parts of the evidence you be satisfied that this person, the prisoner at the bar, actually committed this crime, than whether he had any sufficient or adequate motive for the commission of it. It is impossible to say what effect may be produced upon any particular mind or temper, by any particular cause. It is, however, as far as respects this evidence as to motive, more particularly necessary upon this part of the case to state, that the prisoner is represented to you by many witnesses, who have been called on his behalf, as a man of a kind and humane disposition ; and not only unlikely, therefore, to commit so great a crime as this, but unlikely, also, to be operated upon by such a motive as that which is, in the outset, imputed to him. That is matter fit for your consideration when you are investigating what may have been his motive,—but, as I said before, the consideration and investigation of motives in a man for committing an offence, are such as are almost too remote and too refined for consideration, in such a crime as this with which the prisoner stands charged.

We know not what may produce an effect upon the mind very different from that with which a person may have long appeared to have been impressed; but we are sure of this, that the mind that can be wicked enough to commit such a crime as this, may be feeble enough to be led away by very slight motives.

Having thus disposed of this part of the evidence, I shall now proceed to that part which relates, more particularly, to the two questions I mentioned, the first of which is, whether or not the deceased died of poison? Now, as to this you have this evidence—that upon the 3rd of November, which was a Sunday, the deceased was apparently in good health; she had been ill upon the 19th of October, having been taken ill at the house of the prisoner, or immediately upon leaving it; she returned home after supper, and at about twelve o'clock she complained of great sickness in her stomach; she vomited, and was attacked by a violent cramp in her legs: that indisposition continued for some days, and she did not entirely recover for more than a week, but it was removed. On the 31st of October, she drank tea at the house of her son John, and after her return home upon that day, which was the Thursday preceding her death, she complained a little, and took a single cup of coffee, and a slice of bread and butter, and recovered; but with that exception, she was in a state of good health and spirits, having, in fact, entirely recovered from the effects of that previous illness which she had when first at her son-in-law's. It appears that on the Sunday she went once, if not twice, to

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I recollect my being called in to see Mrs. Downing between four and five o'clock on the Monday morning.—I attended her once before, at a distant period.—I was let into the house by Mr. Donnall; I went into the back room and asked him some questions as to Mrs. Downing's illness, and he told me she had an attack of Cholera Morbus, and that she had a similar attack a fortnight before; I asked him how long she had been ill, and he said she was taken ill the evening before, and that she had been at church twice that Sunday. When I went into the room she was in bed; I asked some questions of her attendants before I spoke to her; she required some rousing before she could answer questions; I asked her if she felt any pain, and she said she felt heat in her stomach, and cramp in her legs; I then felt her pulse, and found it frequent and fluttering. I then went down again into the parlour with Mr. Donnall, and wrote a prescription; I asked some questions of Donnall as to the state of her stomach and bowels, and he said that she had violent sickness, and that her bowels were very much relaxed. I then wrote a prescription. I found that she was in very great danger—I did not observe that she had any symptoms of Cholera Morbus; she had no sickness at that time: there was nothing particular to draw my attention to that being her state; there was nothing to shew the cause of the disease at that time.—I suppose I staid about twenty minutes."

This physician prescribed for the deceased, on that occasion, a medicine such as he in his judgment deemed suitable to her case, he having had the opportunity of

seeing her, and knowing her state, and the propriety of her taking it, as physicians generally do, from the account given them by the surgeon or apothecary attending; and in this instance, the prisoner was attending as the apothecary. It has been suggested on the other side by one gentleman, in strong terms, that this medicine, which was prescribed by Dr. Edwards, is not that which was suitable to the complaint of the deceased:—but that is not the question here, whether the medicine then prescribed were, or were not, the best that could be administered; it was, however, of a kind, in part, with what the prisoner had himself prescribed: but it is not necessary for the purposes of the present inquiry, except so far as to lead to a general judgment of Dr. Edwards's evidence in other particulars, to ascertain whether it were or were not suitable. He judged that there still remained something offensive in the stomach or bowels, that required to be removed, and the medicine which he prescribed was of that nature to remove it. Some of the gentlemen on the other side say that, instead of giving a purgative which is irritating, as all purgatives are, they should have given strong doses of laudanum, and medicine calculated to sustain and support the patient.

Dr Edwards then says, that “in general, Cholera Morbus does not produce death in less than two or three days; there might be some instances, but I never met with one that produced it in less than that time; I never heard or knew of any instance of Cholera Morbus producing death in so short a time as the

illness of Mrs. Downing. In my judgment, and from what I have known since Mrs. Downing's death, she certainly did not die of Cholera Morbus.

“ I then took my leave, having directed the prescription to be given her every three hours, which I took for granted would be so applied. I did not see Mrs. Downing again till after her death; she died at eight o'clock that same morning. I went to the house again on the Thursday morning, to examine the body as to the cause of the death, having been so required by the Coroner, in consequence of the suspicion awakened by the anonymous letter. Mr. Donnall was there, and soon afterwards Mr. John Street a surgeon came; we went into the room, namely, Street, Donnall, and myself; and we took the body from the shell and placed it on the table; when the things were prepared, such as water, &c. I perceived Mr. Donnall was preparing to operate, with the instruments in his hands, and turning up the cuffs of his coat—I told him that he was to have nothing to do with the operation, and I turned to Mr. John Street, and requested him to do it; he objected to it, as not being in the habit of operating for a length of time, and I therefore did it myself, with Mr. Street's occasional assistance. The stomach was the chief object of our examination, and we proceeded to examine it immediately—we opened it and examined it, and poured the contents into a basin; we examined that which was poured into the basin, in order to ascertain whether there were any thing heavy, or any substance in the bottom, by putting our fingers to the bottom—by the word ‘ we’

I mean Mr. John Street and myself; Donnall did not interfere—we did not find the deposit of any heavy substance. We examined the state of the stomach, and found it inflamed rather partially, or in a state which we call stellated, or in stars in different parts of the stomach. We also examined the villous coat of the stomach, that is in the inside of the stomach; the stellated inflammation was in the nervous coat, but it was visible through the other—the inflammation had shewn itself through what is called the villous coat. We found the villous coat softened by the action of some corrosive substance; it should have been much more solid than we found it; I examined it with the nail of my finger, and it came off, particularly the under part where the fluid was: the greatest part of it was so, but we did not examine the whole of it so minutely; the under part is where any thing in the stomach would rest or touch. The blood-vessels of the stomach were rather in a more turgid state than they should be naturally. We also examined the liver and lungs, and both appeared in a sound state. I am not quite certain whether we examined the heart. After examining the contents of the stomach, which were put into the basin, we poured them into an earthen jug which I placed upon a chair, on which there was a cushion; and I took particular care that, as the seat was elastic, it should rest against the back, so as not to fall; and I said that it must be taken particular care of, as it would be necessary for me to examine it—we were then very near each other, and no other person but we three were present at the time. We

proceeded to examine the intestines, and found them also inflamed in different parts, particularly that part which was next the stomach, and some others that were lower down.

“ It is impossible that a patient could be well with such an inflammation; such an inflammation could not be produced by any natural cause within the time. Any active poison would produce that sort of inflammation in so short a time; I think it could not be produced by any thing short of an active poison within so short a time.

“ I then turned to the contents of the stomach, which I had placed in the jug which was behind, or rather on my left side; I found the jug in the same situation in which I placed it, but was surprised to find it empty; I expressed my surprise to Mr. Donnall, and asked him what had become of it, and he told me he had thrown it into the chamber utensil; and I observed to him that he ought not to have done so, as I had before said that it should be carefully preserved; and also that it would give me a great deal more trouble, as I should have to evaporate a larger quantity of water than I should otherwise have had to do, to get at the object of my search; there was little more than half a pint originally, and when mixed with the contents of the chamber vessel, nearly two quarts; the chamber vessel was clean when I came into the room.”——This is a part of the evidence which I shall observe upon presently, as it belongs more immediately to the other part of the case, left for your consideration.

He then goes on to state—"I had thrown some of the water into the chamber utensil, in which we had washed some part of the intestines. As soon as we had finished the examination, I went away, and left Mr. Street behind me, who told me he would take care of the contents. I did not see them again till they were brought to my house in two bottles. I recollect putting the chamber utensil further under the bed, in order that it might not be disturbed, and desired that no one should touch it, Mr. Donnall still remaining; although he had been out of the room once or twice, he was there when that direction was given.

"It was two days before I had finished the examination of the contents of the two bottles; I examined it in different ways by chemical tests, and they all shewed the presence of arsenic; I tried it by chemical reagents that would produce a certain colour when arsenic is in a state of solution. From the appearance of the stomach, and the examination of the contents thereof, I have not the least doubt that the death of Mrs. Downing was produced by arsenic. I should have believed, from the examination of the stomach and intestines, without any analysis, that it had been produced by some corrosive substance."

Then you will observe, that all the tests which he states he tried, in his judgment indicated the presence of arsenic; and although there be a great deal of evidence upon the other side, yet none of it goes to shew that the tests which Dr. Edwards tried, would not prove that arsenic was there, if it really were there:

the same evidence goes on to shew that the same results would be produced from a decoction of onions.

That is the whole of Dr. Edwards's examination in chief. Then on his cross-examination, many questions are put to him as to the disease called Cholera Morbus, of which the prisoner said Mrs. Downing died. He says, that "Cholera Morbus is generally produced in hot seasons, by bile getting into the stomach, and producing irritation there and in the bowels. Cramp generally attacks the patient, from the violent action in the stomach and bowels; it very often accompanies violent bilious attacks; it might arise from a bilious disorganization of the stomach. The complaint of Cholera Morbus may proceed to such a degree as to kill; it is a very distressing complaint. There were no symptoms of Cholera Morbus in this patient, when I saw her; but from what I was informed, I imagined that there was something offensive in the stomach or bowels. —Laudanum is sometimes given in Cholera Morbus; seldom in large quantities, but frequently in small doses, if the case be urgent.—The result of my chemical experiments was not the production of arsenic in substance, but the detection of it in solution."

Then the Counsel for the prisoner very properly desired to know what these tests were, which this witness had tried, in order that they might vary them, in regard to their results, by evidence to be given for the prisoner. Dr. Edwards then says, that the first chemical test which he tried "was with the sulphate of copper, which is the common blue vitriol. If you put a little carbonate of potash into water containing

arsenic in solution, and then add the sulphate of copper in solution, a green precipitate will be produced; whereas, if no arsenic be present, a blue precipitate would be formed." That was the first test which he tried, and by that, a green precipitate was produced. Then he says, "The second test was with the nitrate of silver, or common lunar caustic. Put carbonate of potash into water containing arsenic in solution, and dip the end of a cylindrical piece of lunar caustic into the water, a yellow precipitate will be produced; whereas, if no arsenic be present, a white precipitate would be formed." That is to say, some sediment will fall to the bottom of the vessel, which, in the first experiment, will be green; and, in the second, yellow. He further says—"I tried some other experiments, to ascertain whether any substances which, I was informed, Mrs. Downing had taken into her stomach, could alter the appearances produced by the tests I used, so as to make the result uncertain. I concluded that bile was contained in the stomach, and I therefore procured some, and mixed it with water, and tried it in the same way as I did the contents of the stomach, that is, by the same tests, and the appearance of the precipitate was the same as if no arsenic had been present; and therefore, I inferred that it did not alter the conclusion I had come to.—I was also informed that Mrs. Downing had eaten onions; and, after drawing off the water in which some onions were boiled, I poured some boiling water on them, and left them stand for some hours; I tried this water in the same way, and the tests would not

produce the appearance of arsenic." Whereas, one of the other witnesses speaks of the same effect being produced by boiled onions, under both tests. The onion, or its decoction, must have contained a greater quantity of the juice of that vegetable, than in the manner in which it was tried by Dr. Edwards.

He then says that there is another test, which, if one can try it, is a more certain and sure test than either of these, which are merely to produce a sediment, or precipitate, of a certain colour—whereas, the other test is infallible, and it is this: "By evaporating the fluid containing arsenic, and mixing the residuum with an inflammable substance, in a close vessel, and applying heat, the arsenic will be sublimed in its metallic state"; that is, if there were arsenic in the liquid originally, and if it be exposed to an inflammable substance, you will get it in its original state. He says, that "the result of that experiment would not have deceived any one; but there was such a small quantity left, that it was not tried: but I consider those other tests which I have stated, as being, in the way I tried them, conclusive and infallible." Now, the witnesses on the other side say they are not infallible—but you will see the reasons assigned for that by and by.

He then goes on to state—"I was examined before the Coroner on the same day of the funeral, and on the Thursday preceding. I begged that the Inquest might be put off for two days, till I should have examined the contents of the stomach; and it was put off accordingly. I was examined as to the appearances

I found upon the stomach—I did not state, before the Coroner's Jury, that the appearances of the stomach were such as might proceed from a natural cause.—The age of the person does not predispose a patient to the complaint of Cholera Morbus, more than a youthful person, but rather the contrary.”—Upon his re-examination in chief, he says that, notwithstanding the questions which have been put to him, as to the nature of Cholera Morbus, he still thought that it was not that complaint which occasioned the death of Mrs. Downing.

The reason he did not resort to the other test mentioned was, that there was not sufficient left so as to ascertain it accurately. “The tests I used would detect a more minute portion of arsenic, and therefore, were more proper for that occasion, as I found there could not be much, from the appearance of these tests. Had the quantity been larger, I should have resorted also to the last test. The portion detected was so very small, that I did not think it fit to try the other test by evaporation: I accounted for the smallness of the quantity, from the frequent throwing up, and by the purging, with which the deceased was affected.

“The contents of the stomach being mixed with the water in the chamber vessel, would not alter the result, with respect to the tests; it only made a difference in length of time necessary for its evaporation. If I had evaporated the whole of it, I might have detected the arsenic in substance; but I had made use of a great quantity by the other tests, which I threw away: to have tried that again, the experiment

could not have been so easily done, nor have been so correct.—I don't recollect that the prisoner ever desired that any other test should be tried; but some one came to my house, and requested me to give him a part of the contents of the stomach, to try it; but I had none, so that it was then too late. Mr. Samuel Spyvee Street and Mr. John Street were both present when I tried those tests."

This witness was afterwards recalled, and asked whether arsenic may be administered in a fluid state; and he says, "it may be dissolved in water, and administered: if it be dissolved in hot water, it will contain a large portion; but if in cold water, it will not hold more than in the proportion of one-eightieth part of the water;—when dissolved in hot water, a table-spoonful of the solution would be sufficient to occasion death."

Now, gentlemen, the result of the evidence of Dr. Edwards is this, that the appearances of the stomach, and the other parts of the intestines, were such as to lead him to believe, that the deceased had died of some corrosive matter taken into the stomach—that is, some poison; for a corrosive matter producing death, may be denominated poison. That was the opinion which he formed, from what he saw and examined, connected with the symptoms of the disease with which the deceased was affected, namely, a violent vomiting and purging; for, these are symptoms attendant upon the disease occasioned by arsenic: and he tells you that he should have been confirmed in his opinion, from these symptoms and

appearances alone, that the deceased had died of some poison taken internally ; and he draws the conclusion from his analysis, that the particular species of poison was arsenic.

The next witness is Mr. John Street, who was a surgeon, but has left off practice for some years. He says—" I was applied to, by Mr. Donnall, to attend the opening of the body of Mrs. Downing, on the Thursday. I went to the house about two o'clock, and I found there Mr. Donnall and Dr. Edwards. The operation was performed by Dr. Edwards, and I assisted him. I remember the circumstance of the contents of the stomach being taken out and put into a jug ;—Dr. Edwards poured the contents of the stomach into a jug, and desired that it should be taken particular care of, addressing himself particularly to Mr. Donnall, who was very near him. After that, we proceeded to examine the stomach itself, which we found to be very much inflamed ; I remarked to Dr. Edwards, and also to Mr. Donnall, who was on my right hand, that the inflammation was very high, and the blood-vessels very turgid ; there were stars, and the villous coat was very highly inflamed. We then examined the Duodenum, which we found very much inflamed ; the Jejunum and Illium we found but slightly inflamed. The Cæcum was the next part that we opened ; that was inflamed but slightly. Those are parts of the body connected with the stomach. After that, we opened the chest to look at the heart, liver, and lungs, and we found them in a perfect state."

But it is not contended that Mrs. Downing died of any other complaint but that in the stomach, so that it is not material to inquire into the state of the heart, liver, and lungs. Then he says—"From the appearance of the stomach, I should attribute the death to some corrosive matter taken into it.—I found that the contents of the jug had been removed into a chamber utensil, which had been afterwards removed further under the bed by Dr. Edwards, who remarked, at the time of leaving the room, that he wished nobody to go into it when we were out of the way; he said this to Mr. Donnall, 'You'll observe that nobody is to go into the room while we are away.' We did not leave the prisoner in the room, but we all came down together, and Dr. Edwards and myself went to the town-hall; we remained there about three or four minutes, and the Jury came back with us; I went again to the town-hall, and was absent about ten minutes, at the expiration of which time, I returned to the room to do what was necessary to Mrs. Downing, and to put her into the shell; after putting Mrs. Downing into the coffin, I told the servant to get me some bottles, which she procured; I then poured the contents of the chamber utensil into a jug, and then into two quart bottles. I did not find any person in the room when I came back. I told the servant to deliver the bottles to Dr. Edwards, and I saw her with them, within a hundred yards of Dr. Edwards's house. I was present, and saw Dr. Edwards try some of the tests spoken of; I am not chemist enough myself to say which of them it was, but I saw him try some, and he told me before

what would be the effect." So that this other medical gentleman's judgment and opinion is, that from the symptoms, appearances, and experiments, some corrosive matter had been taken into the stomach.

Mr. Samuel Spyvee Street is the next medical gentleman called, but he does not speak with much confidence as to these chemical tests, as he states that he has not of late years attended to chemistry.

This then, gentlemen, is the whole of the evidence which relates to the cause of the death of the deceased. The witness on the part of the prosecution, Dr. Edwards, is a material witness, representing to you, without any doubts upon his own mind, that the deceased died by having taken arsenic. Then this evidence is met by a great body of evidence upon the other side; but none of the evidence for the prisoner goes to shew that arsenic would not produce those appearances upon the stomach, which have been described by these medical witnesses for the prosecution, nor that it would not produce those particular sediments and colours which Dr. Edwards speaks of;—that body of evidence on the part of the prisoner, however, is not calculated for that purpose, but in order to shew you that the same appearances upon the stomach may arise from disease alone, without poison, and that the same yellow and green sediments might be occasioned by other substances, as well as arsenic, agreeably to the experiments Dr. Edwards tried—and that those experiments are not decisive nor conclusive,

as the same appearances might be occasioned and produced by other causes.

The first witness called on that subject, on the part of the prisoner, is Dr. Adam Neale, a physician resident at Exeter, who says—"I have been frequently called upon, in the course of my medical experience, to attend cases of Cholera Morbus, which is a disease generally arising from putrid bile collected in the intestines, which is thrown off by vomiting, and diarrhœa, or purging; it is the most acute disease known in Great Britain, or one which runs its course in the most rapid manner, as it very frequently kills the patient within twenty-four hours, and if neglected, or improperly treated, it kills the patient in a much shorter period." This shews that death may arise from that disease in a much shorter time than Dr. Edwards says he has either known or read of a patient ever dying of it.—Then Dr. Neale goes on to say, that he should expect to find in a person with this complaint, those symptoms, namely, constant vomiting and purging, attended with pain in the stomach and cramp in the legs; "In that state of the disorder, I should prescribe that the patient drink plentifully of any warm fluid, such as mutton-broth or tea, and then I should give a large dose of opium; were I called in to attend a woman with the symptoms mentioned, whose pulse was frequent and fluttering, I should give her a large dose of opium, and I should repeat it at intervals, till the retching, vomiting, and diarrhœa ceased, or till she felt better.

"I heard distinctly the description Dr. Edwards gave of the appearance of the stomach, after it had been opened, and I should, independently of other circumstances, have attributed those appearances to no cause but the disease of Cholera Morbus—I do not mean to say that these are indications of nothing else, but that they are indications of that disease as well as others: I think that Cholera Morbus would produce that appearance. I never saw the body of a person opened, who had died of Cholera Morbus."—I believe there is not one of the witnesses for the defendant, who speaks as to opening any one that had died of that disease, but they only say, that they think it would have that appearance as described by Dr. Edwards.

This witness further says—"I have had, in the course of practice, occasion to make experiments in chemistry. I have heard the first experiment, or test, which Dr. Edwards stated, namely, that by the sulphate of copper, and in my judgment, that test is by no means an infallible test of arsenic being present in solution. I have also heard the other test which Dr. Edwards tried, namely, that by means of the nitrate of silver, or the lunar caustic, and in my judgment, that species of test, as to arsenic, is equally fallible; neither is that test which Dr. Edwards tried with bile infallible, for from the presence of phosphoric acid, the same coloured precipitate will be thrown down, if some lunar caustic be put into a solution of phosphate of soda. I don't conceive that there is any complete test of the presence of arsenic in bodies, but by evaporating the solution, and reproducing the

arsenic in its metallic state.—I have made an experiment with a decoction of onions, through the medium of nitrate of silver, or lunar caustic, within the last five days ;—I made a decoction of onions, and added the carbonate of potash together with the lunar caustic, and a pale yellow cloud was produced ; the liquor became opaque, and a cloud of a colour between white and yellow, or opal colour, was produced through the whole body, and it precipitated gradually to the bottom. I then varied the experiment—I added some solution of phosphate of soda, and a solution of lunar caustic, and I then obtained a yellow precipitate.”

Then upon his cross-examination for the prosecution, he says—“ I never did, in point of fact, examine a body that died of Cholera Morbus, but I only conclude as a matter of science, that such would be the appearance and the sort of inflammation. If a person take rabbits smothered in onions, the juice of the onion would certainly be conveyed into the stomach ; and the same fluid would be conveyed by eating boiled onions as by taking a decoction of onions, as some part of the juice must infallibly remain. The experiment I made was by cutting an onion into various pieces, and putting it into two wine-glassesful of water, and upon that decoction my experiment proceeded—or by pouring boiling water over it, or boiling them for two minutes, and then I tried the experiment both with the liquid, and with the boiled onions, and the effects were the same ; so that the small quantity that remained in the one case, had the same effect as the extract in the other ;—that which is used at table

must be considerably weaker, but there remains a considerable part of the juice, otherwise the flavour must be all gone: in proportion as the strength and flavour is diminished, so is the strength of the juice diminished. I speak by the experience of all physicians, both at home and abroad, that the presence of arsenic will be positively detected by that mode which I have mentioned; but I don't mean to say that Dr. Edwards's experiment won't do it also—but the phosphate of soda will produce the same thing; I certainly, however, would inquire into collateral circumstances; but speaking chemically, I should conceive none decisive without the reproduction of the metal. I don't speak from my own judgment merely, but from acknowledged experiments." He agrees, in this particular, with those on the other side, namely, in saying that "phosphoric acid exists in all the fluids of the human body, in the blood and other fluids of all animals; but I have not made the experiment so as to ascertain whether it does exist to such a degree in the human bile, as to produce this effect."

On further examination he says—"I have, in the course of my practice, opened many bodies, the stomachs of which were in a state of inflammation, and the appearances were the same as those described by Dr. Edwards, and that in cases in which there was no reason to suppose that poison was administered. I am not aware of any other substance, except this phosphate of soda, that will throw down this yellow precipitate. Supposing a person to have been eating boiled onions at dinner, and in the course of the night to have been

vomiting and purging to a violent degree, I think that enough of the juice of the onion would be left in the stomach to affect the chemical test, notwithstanding the mixture of the onions with the other food.—Although I have opened many bodies, in which the stomach was in such a state of inflammation as that described by Dr. Edwards, I have not attended to the villous coat of the stomach.”

Those were cases in which no actual poison was suspected to be present, but the appearance has been the same as in this instance is supposed to have been occasioned by poison ; yet he has not attended to the villous coat of the stomach, so as to say that it was in the state as has been described in this case.—As to what he says on some experiments made by him with the onions boiled, producing the same results as were produced by the tests of Dr. Edwards, you will observe that his experiments were made with onions in a very different state, from what onions boiled with rabbits usually are ; he could by his mode get a great portion of the juice or strength of the onion in the water ; whereas, in regard to onions prepared for the table, or boiled with a considerable quantity of water, a great portion of their juice is withdrawn from them ; for Dr. Edwards says, that the proportion of the juice will be the same as the proportion of the flavour : this, therefore, leaves you to say whether onions prepared in this way be the same as those prepared for the table, and whether there will not be a great difference in the mode of trying the experiment, even if after vomiting and purging, sufficient will remain. That is therefore

a statement, made by this witness, which is to have as much weight as you think it deserves, but no more; as you are not to be governed by the evidence of one person, but by the result of the whole.

The next witness they call on behalf of the prisoner is Dr. Daniel, a physician at Exeter, who says—“ I am a physican, and of considerable practice, in the course of which I have attended many persons attacked with Cholera Morbus. The symptoms of that disease are usually—considerable vomiting, affections of the bowels, purging, pains of the stomach, great thirst, and cramps or spasms of the legs. For that complaint, I should prescribe full doses of opium, to remove the irritation and to check the discharge; and should so administer, if I found a patient with a frequent and fluttering pulse. I have heard the symptoms described, which Mrs. Downing is said to have had the evening before her death, and they certainly are the symptoms of Cholera Morbus”;—there is no doubt of it, there can be no doubt that they are the symptoms of that disease, but they are also symptoms which may be produced by arsenic.

On his cross-examination, he says, “ they are the symptoms of arsenic, or any poison.—Within my experience, I have seen Cholera Morbus nearly fatal within fourteen hours, but I have never known it fatal; I have known a patient in imminent danger within fourteen hours, but he recovered: I have known that disease shew itself rather suddenly, after an illness of an hour or two—and I have seen a case

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and says, "I should have prescribed diametrically opposite to that prescription of Dr. Edwards," which, to use the witness's own words, appeared to him to be "adding a weight to a porter's back." Then he goes on to say, "there was irritation already existing in the bowels, and that prescription, I conceive, would tend to increase that irritation; there was considerable debility, or exhaustion, and I should think *that* would increase that debility and exhaustion:—I should have supported the patient and given opium in large doses." Thus you see, this witness tells you what he would have done, and perhaps he might have acted more prudently; but I don't know that he would not have acted in the same way as Dr. Edwards himself did, if he were convinced, as Dr. Edwards was, that something offensive continued in the stomach that should be removed.

He then says—"I have had an opportunity of examining a great many bodies after death, but not any that had died of Cholera Morbus; about eight or nine years ago, I had occasion to open the body of a person, whose death was occasioned by a fractured skull, upon the second or third day after his death, and found the state of the stomach highly vascular, which would lead any one unaccustomed to the complaint to mistake it as arising from inflammation;—I mean by 'highly vascular,' that there was a congestion of numerous blood-vessels." But it is hardly to be supposed that Dr. Edwards and Mr. Street could mistake these appearances for inflammation, if there were not really inflammation. He then says—"I should suspect that, as the stomach is inflamed, the

coats of it would be thickened and soft; for, as the inflammation takes place, the parts increase in size. I have had occasion to examine the bodies of soldiers, or persons who have died of that complaint, where there was no reason to suspect inflammation, and I generally found the coats of the stomach red and thick.

“ I have not applied myself much to the study of chemistry, but I have attended chemical lectures; I conceive that the chemical test through the medium of nitrate of silver, or lunar caustic, is not an infallible one as to shewing the presence of arsenic in solution; I know that there are other things, besides arsenic, which, if submitted to the lunar caustic, would produce the same results as would be produced with arsenic: if there be any alkaline phosphoric acid, it would put on the same appearance, and throw down the same yellow precipitate. I have been led to believe that phosphoric acid and salts abound in the human frame.” You will recollect, gentlemen, that Dr. Edwards and Mr. Street did not make any experiment as to that, so as to produce this effect which this person says was produced. He says, “ I have made experiments with sulphate of copper, and it throws down a green precipitate”; that is what Dr. Edwards says was the result of his experiment. This witness then goes on to state, and says, “ I have tried the sulphate of copper with an infusion of onions, and the result was a green precipitate resembling that which would have been thrown down if arsenic had been present.

“ I have known the prisoner a great many years; we were fellow-students at the same public institution,

and under the same surgical preceptors ; and I think that his attention, kindness, and humanity, have always been such as they ought to have been in public institutions ; his character stood high in my estimation ; he was excessively tender and humane.

“ I made those experiments previous to, and since this melancholy circumstance, and particularly that of the nitrate of silver, and I thought it one of the most delicate tests of arsenic, that is, that the smallest portion would be detected by it ; but I have since discovered its fallacy, because it is now ascertained that something else will produce the same appearances.” As to its being a delicate test, that is what Dr. Edwards said when he stated that it could detect arsenic in the smallest proportion.

Then the next witness called is Dr. Joseph Collier Cookworthy, who says—“ I am a physician at Plymouth. I have heard the examination of Dr. Edwards, and the tests that he applied to the contents of the stomach of Mrs. Downing, and I am satisfied, in my judgment and experience, that those tests are not such as can be deemed conclusive as to the existence of arsenic, as they do not unequivocally shew its presence in the human body ; the same results would follow from experiments with other compounds : I am borne out by all philosophical chemists in this country, in stating that the only test that can bear a man out in swearing to its presence is, the reproduction of the arsenic in its metallic state :—in the other tests, where evaporation has not been resorted to, it is the colour

of the precipitate only that is relied on. I by no means think that the appearances stated to have existed in the stomach of Mrs. Downing, were such as only to denote the presence of arsenic." But you will observe that Dr. Edwards and Mr. Street did not say so—they only said that the appearances seemed to have been occasioned by some corrosive substance being taken into the stomach.

Then Dr. Cookworthy says that he has known the prisoner long, they having been educated together at the Exeter Free Grammar-school—that his character stood high, and that he was respected by his school-fellows.

On his cross-examination this witness adds, "Other compounds would give the same results as those produced by the tests which Dr. Edwards used, such as phosphoric acid with the lunar caustic.—Understanding that the deceased had died after eating a hearty dinner of rabbits and onions, I cut a large onion into slices, and took a slice of raw meat, and put them into the same vessel, and poured rather more than a pint of warm water upon the mixture, with the view of making an infusion; I allowed it to infuse for some hours; I then took a quantity of the liquid or infusion so prepared, and I applied to it the same tests:—first, the subcarbonate of potash in solution, I then added the sulphate of copper in solution, the two tests which I understood Dr. Edwards had used, and a green precipitate was instantly formed. With another portion of the liquor I tried this other experiment;—I put in some subcarbonate of potash in solu-

tion, and I then added the subnitrate of silver, or lunar caustic, and a yellow precipitate was produced."

He therefore says that he tried this liquor, in which he had steeped an onion, by both the tests which Dr. Edwards had tried with the contents of the stomach of the deceased, and by which liquor they produced the same result. And the important circumstance to be observed on that evidence is this, namely, that it is not impossible, and not even improbable, that the result of these experiments as produced by Dr. Edwards, was not owing to the presence of arsenic, but to the onions which this lady had dined on; but, as to the other matter, the phosphoric acid, producing the same effect, I think that there cannot have been sufficient in the human body to produce that result.

The next witness called is Mr. Samuel Luscombe, a surgeon of the Exeter Hospital. He says, "I have been fifteen or sixteen years in that situation, and have had an opportunity of examining many bodies. I have heard Dr. Edwards give his evidence, and, from the account which he has given, I should think that those violent retchings and purgings had exhausted the deceased, and had caused her death;—I could not account for the cause of the inflammation, unless from discovering some poison in the coats of stomach at the time. In the course of my practice, I have known a great many instances of Cholera Morbus, the immediate cause of which is, a redundancy of bile and humours upon the stomach. If inflammation be found upon the stomach, the internal coats of it would

be very red in various parts, and the colour very florid, but in the course of two or three days it would become more dark :—I never opened the body of a person who died of Cholera Morbus.—I have known the prisoner, and found him always attentive to his superiors, kind and attentive to his patients, and mild in his manners.”

This then, gentlemen, is the evidence on the one side and on the other, as it applies itself to the first question I mentioned, namely, that as to the cause of the death of Mrs. Downing. You perceive that the witnesses for the prosecution attribute her death to poison, or some corrosive substance taken into the stomach, and some of them even state it to have been that particular poison called arsenic ;—but, on the other hand, the witnesses on the part of the defendant all say this, not as differing in regard to the particular symptoms evinced in the deceased, that they are symptoms usually attending the disease called Cholera Morbus ; but they also say that such appearances might be produced by poison. As to the appearances upon the stomach, they were evidently produced by inflammation, which inflammation, they say, may have been derived from other causes than that it is attributed to on the part of the prosecution, and therefore, that these appearances are not infallible proofs of poison : but you will observe that theirs is the judgment of persons who did not see the particular parts of the body which were the subject of inquiry ; they merely contradict the opinion of Dr. Edwards, without seeing

and knowing the appearances which he saw and knew. You are therefore to judge whether greater weight ought not to be given to the opinion of one who examined the subject, rather than to that of one or more who did not see the subject.

Then again, as to the chemical experiments shewing that there was the presence of arsenic, these witnesses for the prisoner say that they are not decisive, and for this reason—because as to one, the same effect may be produced by another substance, namely, phosphoric acid; but although it might be so, yet, if there were no phosphoric acid in the stomach of the deceased, or no quantity of it sufficient to produce that appearance (whatever might have been the appearance if sufficient were put in), then the experiment is tried on something that did not contain a sufficient quantity of that matter. Although the same result might be produced by that matter, if there—yet, if there is no reason to suppose that that matter was there, or there in sufficient quantity, then I think the suspicion that arsenic was there is very strong.

With respect to the experiment upon the onions, it is spoken to by one witness very strongly, and by one other not so much so, that the same effect is produced, although not to the same extent. This lady, it appears, had eaten onions that day; but if she had not been labouring under sickness for the whole week, and had eaten onions only that day at table, and although they be capable of producing that same effect which has been described, in regard to the other tests, you are to consider whether you think that there could be a

sufficient quantity of these onions remaining in this liquid contained in the stomach, to produce that effect; and if you think there was not a sufficient quantity, then the evidence of Dr. Edwards, corroborated by the other medical gentlemen examined for the prosecution, as to its being arsenic, is very strong, as it appears that all the effect of poison was evinced.

If, however, the evidence as to the opinions of these learned persons, who have been examined on both sides, should lead you to doubt whether you should attribute the death of the deceased to arsenic having been administered to her, or to this disease called Cholera Morbus—then, as to this question, as well as the other question, the conduct of the prisoner is most material to be taken into your consideration; for he, being a medical man, could not be ignorant of many things, as to which ignorance might be shewn in other persons; he could hardly be ignorant of the proper mode of treating Cholera Morbus; he could not be ignorant that an early burial of the deceased was not necessary; and when an operation was to be performed, in order to discover the cause of the death, he should not have shewn a backwardness to acquiesce in it—and when it was performing, and he attending, he could not surely be ignorant that it was most material for the purposes of that investigation, that the contents of the stomach should be preserved for minute examination.

Then on the other question, supposing you should think that the deceased died by poison, you will have

to consider whether that poison was administered by the prisoner himself. Now it has been justly observed to you, from its being in the course of the prisoner's profession, that he should be possessed of this particular poison called arsenic, as this and other poisonous drugs are sometimes wholesome when administered in small quantities, but when administered in large quantities they would be dangerous; therefore you cannot expect to have such evidence in this case as we generally have in other cases of similar charge, as to the purchase of that poisonous article.

Now, in order to shew you that the prisoner did in fact administer arsenic to Mrs. Downing the deceased, the Counsel for the prosecution offer this fact to your consideration, namely, that on the 19th of October preceding her death, the deceased having gone in perfect health to the house of Mr. Donnall, was afflicted during the night with symptoms of the same kind, although not to the same degree, as upon her visit on the 3rd of November, which is to lead you to suppose that at that first visit some attempt of that kind was made, although not to that extent; now, upon that second visit, the only thing the deceased took at the house of the prisoner was a cup and a half of cocoa, and bread and butter, and it is sufficiently established on the part of the prisoner (if not on the part of the prosecution, yet it is sufficiently established by evidence), that the cocoa which she took upon that day had not arsenic infused into the general quantity; so that if any were put into it, it was put into that particular cup which had been given to the deceased:

that it was not put into the cocoa generally is shewn by the servant examined for the prisoner, it appearing that Mrs. Downing drank some part of a second cup, and the remainder of it, with what was left in the pot, was drank by that servant and others in the kitchen where it was carried. You have therefore that fact clearly established, that the whole quantity of cocoa was not poisoned that was brought to the table that day, and thus you may take it as a fact that poison was not mixed with the whole quantity, and therefore, if mixed at all in the cocoa, it was only in the particular cup given to Mrs. Downing that afternoon.

A great deal of evidence has been adduced, leading to this conclusion which you are desired to draw, namely, that that first cup of cocoa which Mrs. Downing took, was handed to her by the prisoner himself. There were present in the room, on that occasion, only six persons—the prisoner and his wife, the deceased, Mrs. Jordan, Mr. Edward Downing, and Mr. Samuel Downing; and all these three persons who have been examined, have stated that they did not give the first cup to Mrs. Downing. Mr. Edward Downing said he handed the second, but they all say they neither of them handed the first cup; and they say, also, that from the situation in which the deceased Mrs. Downing sat, she could not have taken it herself. The situation in which they sat was this—Mrs. Donnall sat at the table, and made the tea, next to her Mrs. Jordan, then Edward Downing, and next to him Mrs. Downing; the deceased sat nearest the fire-place upon the left-hand side, so far removed from the table

as not to be able to reach it without rising, which she is said not to have done ; upon the opposite side of the fire sat Samuel Downing and the prisoner himself.

You have also heard, from the evidence of Samuel Downing, that he recollects the circumstance of Mr. Donnall rising from his seat and going to the table, and instead of going straight forward, after having advanced from his seat and taken something off the table to hand to his mother-in-law, he went round the table and passed behind his wife and Mrs. Jordan, and then between Mrs. Jordan and Edward Downing, in doing which he involuntarily struck the elbow of Mr. Edward Downing, and spilt some of his tea—by this circuitous route he came to Mrs. Downing and handed her the bread and butter, and afterwards returned to his seat. Whether he handed her the cup of cocoa at the same time, no one knows ; it may have been at the same time with the bread and butter ; but you are left to judge of that yourselves, and to draw your own conclusions from the relative circumstances as stated to you by these three witnesses, who were the only persons present who could be examined on this occasion. They all of them say, that neither of them gave the first cup of cocoa ; but these witnesses, Samuel Downing and Edward Downing, say that they recollect the prisoner's going round in that particular way described, passing between Mrs. Jordan's chair and Edward's chair, and so coming round to the face of his mother-in-law, all of which circuitous route might have been saved by going directly up to her from the opposite side of the table.

It is thus left for you to consider whether Donnall, the prisoner at the bar, took that opportunity, when passing in this manner behind those parties, of infusing the arsenic into the cocoa. You will observe that it has been stated to you in evidence, that the arsenic might have been given either in powder or in solution—that is, by putting arsenic into hot water, and dissolving it, by which means the water will contain so much of the poisonous quality, as that a table-spoonful, perhaps a dessert-spoonful will cause death:—but whether it were in powder or in a soluble state, there is no direct proof, nor is there any thing to lead to a conclusion either in one way or the other; but I apprehend it might have been dissolved in the stomach itself, so that I don't know that there is any decisive evidence that it was not administered in powder.

This is the account given of what took place on that occasion: soon after this happened, Mr. Donnall is called out of the room to attend a patient, who came to have a tooth drawn; he was absent for about a quarter of an hour, and returned at the time when Mrs. Downing, having drank about half of her second cup of cocoa, was leaving the room to go to her own house; on her arriving home, she was instantly taken ill with that violent retching and vomiting which continued for some hours, and which was certainly that illness which continued until she died.

But in order to remove the effect of this conduct of the prisoner on that occasion, as to handing the bread and butter to his mother-in-law, they adduce evidence

to shew that it was his constant habit to serve his visitors himself, and not always to have the servant to wait on them, never allowing any of the party to rise from their chairs themselves ; but still, the particular circumstance of his rising and passing round in this way behind his wife and Mrs. Jordan, and passing between the two persons mentioned, does not appear to be at all accounted for.—I believe this is the substance of the whole of the evidence as it applies to any thing that passed in the house of the prisoner that afternoon :—(*to the Counsel*) If I have omitted any thing which is material, I shall be obliged to you to mention it.

Now we go to the conduct of the prisoner after this event happens. He waits and attends on the deceased during the whole of the time of her illness down to her death ; how soon he perceived the approach of dissolution—how soon he perceived that further advice was necessary, we cannot tell ; it is true, however, that between four and five o'clock in the morning, when the patient was extremely ill, he recommended Dr. Edwards to be called in, and it is clear that *he* came too late to do any good upon this occasion. It may be said that this shews the prisoner was not conscious that there was any thing of a poisonous nature administered : but it may be equally true that he might then know, that if there were poison administered, its effect was then actually and completely produced. The calling, then, this physician at that season, does not appear to lead to any conclusion either one way or the other ; it is evident that no conclusion can be

drawn from this circumstance, either for the prosecution, or on the part of the prisoner.

On the morning after Mrs. Downing died, we find that the prisoner goes into the parlour in the house of the deceased, where he finds his brother-in-law, Samuel Downing, and with him he holds this conversation : he said that he thought it was necessary a shell should be made immediately for the body of the deceased, as he was apprehensive the body would swell, and that unpleasant circumstances might thereby occur ; Samuel was desirous of communicating this to his brother William, and the prisoner accordingly mentioned the same thing to him, about ordering a shell so soon ; —finding him hesitate, however, as to the necessity of so doing, he then said that there was already a discharge from the nostrils, and that she could not possibly be kept longer than the Wednesday. This, therefore, is a circumstance extremely material for your consideration, that in the short space of a few hours after the death, the prisoner says that it was necessary to prepare a shell to prevent unpleasant consequences, and that a discharge already appeared from the nostrils (a circumstance which is directly contradicted), and that he says that the funeral ought not to be delayed beyond the ensuing Wednesday, which was the day but one after the death.

Mr. William Downing, who was examined, gave also the same account of this part of the conversation ; and then it farther appears that upon the next day, directions having been given to prepare a grave at Mawnan, some little distance from Falmouth, that

being the place where the husband of this lady had been interred, the prisoner expressed an eagerness for the completion of that grave, and said that having occasion to go and visit a patient at Manackan, a considerable distance beyond the intended place of interment, he should ride that way and see if the workmen were going on speedily with the work; although he were told it was unnecessary to do so, yet on his return he said he had done so—upon the part of the prosecution the evidence would even carry it farther than this; as it stands now, it was an eagerness on the part of the prisoner to have the deceased interred.

But they say that his (Donnall's) statement was untrue as to his going to Manackan at all, and for that purpose, the Counsel call the Boatman of the Ferry, in which it was necessary for the prisoner to have crossed, and that person says, "I keep the ferry-boat, upon the river which separates Falmouth from Helford and Manackan;—to the best of my knowledge, the prisoner, Donnall, did not cross that ferry in my boat on the 5th of November; I employ a servant-man who constantly goes in the boat with me, but when I have particular business I hire another man: I was in the boat myself that day, to the best of my knowledge and recollection."

Now, if the question were whether the prisoner, Donnall, had gone to that place on that day, it does not appear to me that James Veal by his evidence could satisfactorily prove it; but even supposing it to be a fact that Donnall had gone there to visit his patient,

yet still, the eagerness he shewed to have the interment completed, in order that it might not be delayed beyond the day he mentioned, is a circumstance very material for your consideration, knowing as you do, that he himself, the prisoner, is a medical man—and connecting that which he said with what Dr. Edwards stated was the real state of the deceased, you may collect what must have been the real state of the body, from the evidence of one possessed of similar knowledge to that of the prisoner.

In consequence of the prisoner stating to William Downing that there was a discharge at the nostrils, he went to see the body at least once every day after that, and sometimes twice, and he did not perceive that any such thing had taken place; Dr. Edwards, too, says that the body of the deceased did not swell; that he saw her on the Thursday, and she neither had swelled nor were there any symptoms of putrefaction—and yet we find that the prisoner had suggested the propriety and necessity of putting her into a shell immediately, as such symptoms had already taken place. There could be nothing perceptible in regard to the body on the Monday, to lead a person to suppose that putrefaction would take place; there was then no swelling, and no appearance of swelling; and such also is the evidence of one who saw the body two or three days afterwards—and therefore, it was impossible that there could be any such symptoms upon the body on the Monday, that could lead a medical man to say that putrefaction would ensue, or that it was necessary to procure a shell immediately.

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particularly to Donnall the prisoner. Notwithstanding this caution, however, and although he, the prisoner, as a medical man, ought to have known of himself that this was absolutely necessary to be preserved for further examination, what do you find him do? You find that when Dr. Edwards and Mr. Street were engaged in the examination of the body, the contents of this jug were removed and the jug replaced, and it was found in the precise spot where it was at first put, but it was empty; whether it were intended by the the prisoner to put any thing into it as a substitute, we do not know—but certain it is, that on his being challenged by Dr. Edwards as to this circumstance, he (the prisoner) said he had thrown the contents of this jug into the chamber utensil. Now, what pretence was there for this? And if he did it, why do it in secrecy? why place the jug in the precise situation in which it was placed by Dr. Edwards? why not allow it to remain in the situation in which such a vessel may be placed, during the progress of such an operation?

Dr. Edwards tells you that he then said to the prisoner, that he should be under the necessity of taking a longer time to perform the operation, namely, the evaporation; he also says that he tried some tests, which satisfied him that there was arsenic present in the contents of the stomach, but there was so small a portion of it altogether remaining, that the experiment which is admitted on all hands to be infallible, namely, that by evaporating the water and leaving the substance, could not rightly be tried.

There is another fact also stated in the evidence, which is adduced with a view to lead you to this conclusion as to his conduct, although I cannot see how it is reconciled with what is stated by Dr. Edwards and Mr. Street, who say they put the chamber utensil under the bed, and pushed it in so that it might not be touched; and then Mr. Street says that, when he returned after being before the Coroner, he found it in the same place, and having the same contents:—but it appears by the testimony of Mr. William Downing, that while Dr. Edwards and Mr. Street were attending the Coroner's Jury, the prisoner went twice hastily from his (the witness's) mother's room into the room of his brother Samuel, and threw some liquid from one vessel into another. Now as to this circumstance, I have to observe that no examination was ever made of the room of his brother Samuel, notwithstanding that anonymous letter which was sent; but, at that time, no suspicion existed against Donnall in their minds—they entertained no suspicion that their brother-in-law could be guilty of so great and enormous a crime; nor indeed did they suspect that any one had done it. This is, however, one of those circumstances of obscurity which often occur in cases of this kind—that he should even have done this, is a circumstance fit for your consideration, in order to lessen the great obscurity that prevails, and which you must explain for yourselves, or leave it still in obscurity.

This examination took place in consequence of an anonymous letter sent to Mr. Bull, the Mayor of the

town of Falmouth, and which came to the ears of the relatives of the deceased upon the Wednesday. You will have observed that it was stated by the gentleman who opened this case, and who opened it with all those talents he is accustomed to display, he could not say but that the conduct of the prisoner, on that occasion of the letter being shewn him, was such as to denote a guilty conscience.

That letter which I allude to is in these words:—

“Sir, I shall, without any apology, demand your serious and immediate attention to a circumstance which has excited considerable notice amongst many people in this town; and, from the fact which I shall mention, I am convinced you will think it necessary to make an immediate investigation. Mrs. Downing yesterday drank tea with her son-in-law, in perfect health; a short time after, she had violent retchings, which soon ended in death. She had something of the same kind two or three weeks before, after drinking tea with him.—What I beg you to notice is, the great similarity I am told there is, between what symptoms she felt and what people feel who swallow poisonous corrosive substances; and also, her having had but one attack like it before, and that, too, when she drank tea with him.”

Now, this letter implies that the death was occasioned by poison, and that it was received by the deceased at the prisoner's house. This letter was put into the prisoner's hands, and the person who put it into his hands watched him attentively, and observed that he was much agitated, and that he dropt the paper

out of his hands before he had read the whole of it; another of his brothers-in-law, however, said that he (the witness) sometimes looked out of the window, and sometimes not, and that he saw nothing remarkable in the prisoner's conduct; but you will probably think that the want of his observation is no reason for rejecting that which was said by the other. You are to connect the conduct of the prisoner, and his agitation, with what he said, namely, that it was a villainous thing to write and send such a letter, calculated only to ruin him in the town, and that his practice, or business, would be broken up; so that he makes it appear that it was written through malice, that he must have felt innocent, and that if the imputation were to be thrown upon him, such an imputation would be injurious to him during the remainder of his life—and I think Samuel Downing said that he himself at the time thought it a malicious thing, and that he did not suspect the prisoner. You will therefore consider, gentlemen, whether the agitation of the prisoner ought to be considered as an indication of guilt, or whether it may not be attributed to a consciousness of innocence, or whether it were merely owing to the suspicions that such an imputation would produce injury to him.

The only other fact necessary to state for your consideration is, the conduct of the prisoner at the time when it was intended that he should be apprehended and brought before a court of justice for trial, and that, gentlemen, is in substance this: that the constable went four times to his house before he found him, or

at least before he was allowed to see him ; that during that time, or during the greater part of that time, he was in the house, and that he had endeavoured to effect his escape by several means, such as by attempting to get up through the chimney, &c.

Mrs. Elizabeth Downing says—" Upon the 14th of November I went to Mr. Donnall's house, between two and three o'clock ; Mrs. Donnall was not then very well ; I believe in about an hour and half or two hours after I came in, I saw the prisoner, who came to me where I was sitting in Mrs. Donnall's bed-room, he asked me how I did, and went out again ; Mr. Hitchins the clergyman came there, and left us at about half-past seven, or eight. The prisoner came into the room again for a little time, and when he came in, he appeared very much agitated ; I did not know that he was in the house ; he said he came from the adjoining room, and added, ' They are come to take me.' I don't think I asked him any questions, but Mrs. Donnall asked him how he was so dirty, and he replied that it was in trying to get up the chimney. He made several attempts to escape, and then at last, he said he would give himself up."

Now, gentlemen, such is the evidence on this point ; and you will observe that the flying from justice may be a circumstance to be noticed, as it may be an indication of guilt ; but at the same time you are also to consider that a person, however conscious of innocence, might not have courage to stand a trial, but might, although innocent, think it necessary to consult his safety by flight : the attempt to do it is, at

any rate, a fit subject for your consideration. It may be a conscious anticipation of punishment for guilt, as the guilty will always anticipate the consequences ; but at the same time, it may possibly be, according to the frame of the mind, merely an inclination to consult his safety by flight, rather than stand his trial on a charge so heinous and so scandalous as this is.

Gentlemen, I believe I have now given you the substance of all the evidence adduced on the one side and on the other in this important case, with the exception of the evidence as to character, last called : —(*to the Counsel*) If I have omitted to state any fact which is material, I beg you will suggest it.

The remaining evidence I have to state is that which is given by six or seven witnesses called as to the prisoner's character, in addition to the medical men, whose testimony on that point I have already given in the course of reading their evidence. There are several other persons who speak of him as being a man of great humanity, and tender-hearted and kind to every one :—that is the character which is given him, and which is material for your consideration, as the act imputed to him is the contrary of that character, as it is certainly an act of great cruelty, the taking away of the life of one so nearly connected with him, and who had never done him any injury.

But if, on the other hand, the evidence which has been previously adduced, in order to establish his guilt, does actually lead you to that conclusion satisfactorily, then the evidence as to character cannot properly alter it. Evidence as to character (as I be-

lieve many of you have already heard me say, in the course of this assize) is a species of evidence which can only have weight in those cases in which the evidence to sustain the charge leaves us in considerable doubt as to the guilt of the individual; but in all cases where the evidence does not leave the guilt of a prisoner in doubt, the evidence as to character cannot disprove that which has been previously proved; in other words, it can only shew that the crime is unlikely—but if it don't disprove the other evidence adduced as to guilt, it cannot have weight.

In the present case, the evidence as to character certainly stands in favour of the prisoner, on the one hand; but if you be to consider the motives which have actuated him, on the other, which although it may be apparently of no great weight or import, yet you are to consider that bad minds may in many cases be operated upon by slight motives, and that persons even of the best of characters may, from such motives, be sometimes guilty of the worst of crimes.

Gentlemen, you will then take into consideration all the evidence that has been adduced before you, and give such weight only to the observations I have made to you as you think they deserve.—First, you are to consider whether you be satisfied that the deceased died by poison; and in considering what the medical men said upon the one side and the other, you must take into account the conduct of the prisoner in urging a hasty funeral, and his conduct in throwing away the contents of that jug into the chamber utensil.—

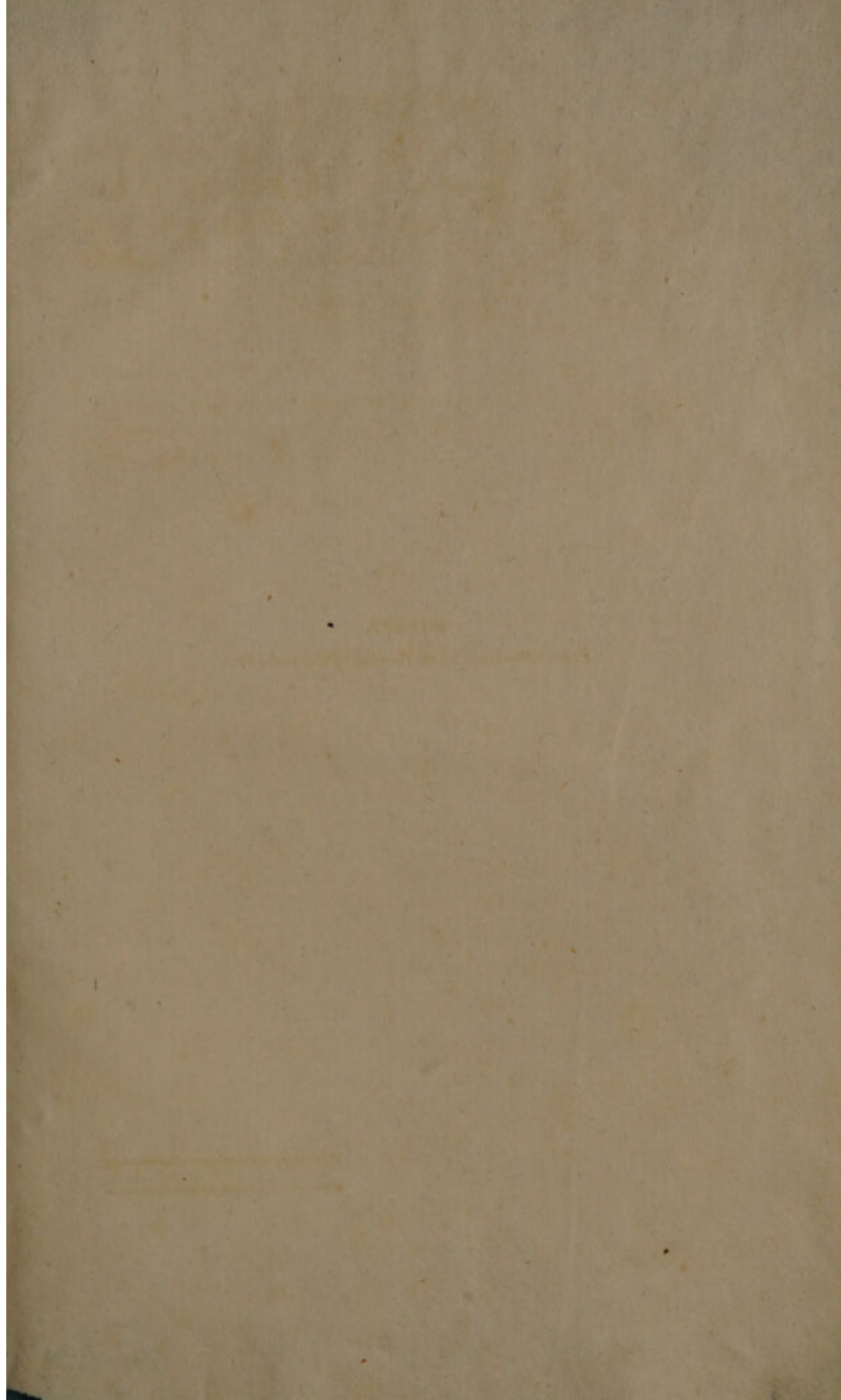
Then again on the other question, if you be satisfied that the deceased died of poison, you are to consider whether that was administered by the prisoner.—You will take into account the circumstance that, on a former occasion, after drinking tea at the same place, Mrs. Downing returned in the same state as upon the day in which she died.—If upon this occasion the poison was contained in the first cup of cocoa, and if it were not handed to her by any of the witnesses, then you are to consider the suspicious circumstance of the prisoner's going round the table in the extraordinary manner he did—his conduct in endeavouring to get the body out of the way—and his turning out the contents of the jug.

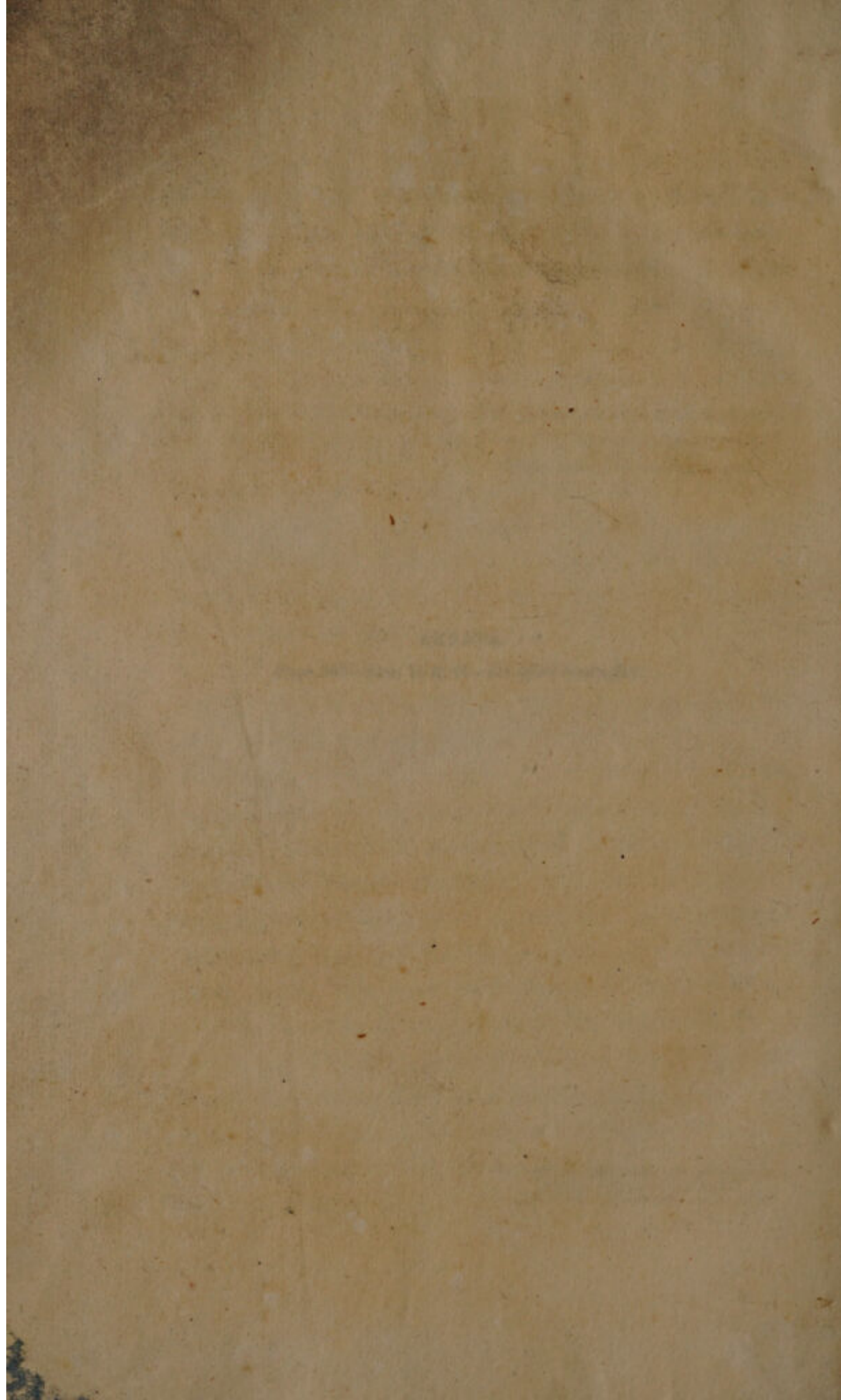
This then is the whole of the evidence, upon the one side and the other; and if you be satisfied that the deceased died by poison, and that that poison was administered by the prisoner, then, whatever may be your feelings of compassion in considering his age and his former character, you cannot otherwise discharge your duty than by saying he is guilty, if your mind lead you to that conviction. If, on the other hand, you have such doubt in favour of the prisoner as to lead you to deem him innocent of this enormous offence, you will return a verdict accordingly—exercising your own judgment, and consulting your own reason and conscience, you will return such a verdict as will do equal justice to the party and to the country.

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ERRATA.

Page 109—lines 15 & 17—for *effect* read *affect*.





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