

ATROCIOUS MURDER OF A CHILD IN ARBROATH.

It is our very painful duty to-day to report that this week our usually quiet town has been the scene of about as horrible a murder as any on record; for whether or not the deed may be judicially declared murder, and whatever may be the fate of the unhappy man who is in custody charged with its perpetration, there unfortunately cannot be the least doubt about this—that the victim has been slain, and in a manner so brutal that the details are absolutely sickening in their horror.

The victim is a little girl, five years of age, named Ann Swankie, daughter of David Swankie, fisherman, Union Street East, Arbroath; the murderer, or the person charged with the murder, is William Cargill, fisherman, Auchmithie. Cargill is a man of apparently about thirty-five years of age. It is usual for the Auchmithie fishermen to come in to Arbroath during the herring season, and Cargill, along with others, had been living here during the present season. He lodged along with his wife in a back-room adjoining a small public-house in Ladybridge Street occupied by Mrs Vannet. It was in this apartment, or rather the passage leading to it, that, on Thursday afternoon, there occurred the frightful tragedy the few but shocking particulars of which we have now to relate.

The house is situated in the division of Ladybridge Street between Marketgate and the Shore, on the north side. Besides the door into the public-house, there is a door leading from the street to the back-room which was temporarily tenanted by Cargill and his wife. Within the street door there is a flight of steps conducting to the upper storey of the house, and at the bottom of the stair is an inner door which opens into the passage where the child was killed. It appears, as we have heard, that shortly before four o'clock, Helen Stewart or Swankie, the mother of the murdered child, had been passing along Ladybridge Street, presumably on her way home from the Shore. She had a sick infant in her arms, and her daughter Ann was walking by her side. Mrs Swankie, we have been informed, went into Mrs Vannet's public-house to get a drink of water for the infant, and was followed by Ann, who also, having sought for it, got a drink of water. It seems that after this Mrs Swankie had been standing for a little speaking to a fisherman named Thomas Cargill—no relation of the prisoner's—and that meanwhile her daughter Ann had gone a step or two along the street. Whether the prisoner had decoyed her into the place occupied by him, and in which there was nobody but himself at the time, or whether the child, seeing the door open, had wandered in of its own accord, is not, we believe, known. The first thing that attracted attention was the sound of blows apparently given with a heavy instrument, and on some women—one of whom was the child's mother—looking in at the open door they were horrified at seeing Cargill beating the poor child, Ann Swankie, on the head with a poker. The women raised the cry of 'Murder,' and a number of men were speedily attracted to the spot. Among the first to arrive was a man named John Beattie; David Gibson, and a young man named Todd, fish dealers, who were driving up from the Shore with some crans of herrings; George Nicol, Bell Rock Tavern; John Benson, potato-dealer; David Milne, blacksmith; Mr Sprunt; and William Higgins, carter. We understand that the man first on the spot was Mr Nicol. He was going home at the time, from the Shore, and was attracted by the cries of murder from two women, one

of whom was understood to be the child's mother. He looked in, and saw a man striking a child with a poker. The child was lying on the ground, and Mr Nicol noticed its head move once, but he thought that must have been a convulsive movement, as the poor girl, whose skull was already beaten in, must have died from the first or second blow. Mr Nicol thought of rushing in to seize the man, but, unarmed as he was, it was hazardous to attempt to seize a person who for the time-being appeared to be labouring under a paroxysm of madness, and, seeing that the child was already killed, Mr Nicol ran to the Shore, in search of a policeman, and, not finding one there, went next towards the Police Office, to procure assistance. He had just left the door of the house when Gibson, Todd, and the other men arrived, attracted by the same horrible cry of murder which had attracted him. Gibson states that when he and Todd drew up at the place, Beattie was there with the women, and among them the mother of the murdered child. The mother was crying, and in a state of painful excitement, as may well be supposed. She screamed for help, as she said William Cargill was murdering her child. She wanted to go into the house, where the prisoner was still dealing blows on the head and body of her little daughter, but Gibson, seeing the danger, withheld her, and she was taken away from the place. Some time afterwards, and when the prisoner had been removed, the poor woman came back, desirous of seeing the body, but Superintendent Milne, who was then on the premises, kindly persuaded her to go away, as the corpse was in such a condition that it was considered undesirable that she should see it. It was said that she is near her confinement.

The scene which presented itself to the men, on looking into the passage, was horrible in the extreme. There stood the murderer, holding on by the room-door with his right hand, and with the poker in his left, striking the senseless corpse of his victim. The body was lying on one side, and the side of the head which was uppermost was completely battered in. It was afterwards found that there was a heavy cut on the forehead. With the blood and brains the floor, door, and walls were bespattered. Cargill continued brutally beating the body, running back a little after each blow, and then springing forward to inflict another. The blows fell on the body and legs as well as the head. The man, in his fury, had all the appearance of a wild animal, and it was a matter of much difficulty to stop his savage onslaught, and get him captured. This difficulty arose from the narrowness of the doorway and passage, rendering it impossible for more than one person to enter at a time. One of the men—Todd, we believe—drew a clasp-knife, and proposed to run in upon the murderer, but, being dissuaded from using it, he put up his knife again. At length—but there was not much deliberation, for the men were not on the spot more than a few minutes when they had captured Cargill—Higgins, the carter, who had a whip in his hand, asked Gibson to 'back' him, and he would make a run in. Gibson replied to this that some of them would be sure to get a 'chap,' but they must take their chance, and try to capture the man. Accordingly, Higgins, rushed in, but he missed Cargill, and, slipping on the bloody floor, he fell at his feet. Cargill aimed a blow at him with the poker, but, instead of striking Higgins, it struck Gibson on the right hand. The blow was a severe one, and Gibson is suffering from it, but he was not disabled. He made a spring at Cargill's throat, and succeeded in throwing him down. We hear that even then the prisoner tried to grasp at the body of the child, which was lying with its head in the passage, and the feet in the room. The other men, however, got in about Cargill, and together they succeeded in drawing him out, and he was thus carried by them to the Police Office, one man holding him by the hair of his head, and others by his legs and arms. When captured, Cargill was perspiring copiously; literally, this was

caused by the exertion he had put forth in killing the child, and in continuing his blows on the dead body. It is supposed that besides the poker a besom had been used as a weapon: at all events, one was found in the place with blood upon it. When being taken to the Police Office, the prisoner did not attempt to make any resistance. On some of the men asking him if he knew what he had done, he said he had 'killed his father's devil.' He also said, we hear, that he knew what he had done; he had 'killed Nelly Stewart's child.' At anyrate, some of the men state so, but, on the other hand, the fishermen state that the man could not have known who the child was. Cargill's wife came up from the Shore, on hearing of the occurrence, and we have heard that on presenting herself at the door of the place where her husband was, he threatened to kill her also if she went in. The whole horrible affair, from the first attack on the child till the man was lodged in the Police Office, must have occupied about three quarters of an hour.

On being taken to the Police Office, Cargill was in an excited state, and had some appearance of being either mad or feigning madness. He soon, however, calmed down, and he asked for a chew of tobacco, telling Gibson, who was beside him, in which of his pockets he would find the tobacco. Cargill appeared to be perfectly conscious of the position in which he stood, and he said something to the effect that they might as well hang him at once. He was ironed, and placed in a cell, with a constable along with him. We understand that during the night he slept little, and his behaviour was variable. Sometimes he was singing and whistling, and at other times was moody and dull. He attempted to engage in conversation, and did not seem to regret what he had done. So far from that, he said that if his hands were free he would do the same to the officers whose duty brought them into contact with him. Yesterday forenoon he was visited in the office by the Provost and Bailies Christison and Salmond. He told them and the officers standing about that they were great sinners, but that it would soon be all right with him. A warrant for his committal to prison on a charge of murder was signed by Bailie Christison. The complaint was in the following terms:

'That William Cargill, fisherman, at present in custody in the police cells, Arbroath, has been guilty of the crime of murder, actor or act and part, in so far as on the 10th day of September 1868, or one or other of the bye-past days of that month, within the dwelling-house or premises in or near Ladybridge Street of Arbroath, in the occupation of Jane Reid or Vannet, public-house keeper, residing there, or in the occupation of the said William Cargill, the said William Cargill did wickedly and feloniously, with a poker, or piece of iron, attack and assault, and murder, Ann Swankie, aged five years or thereby, daughter of and residing with David Swankie, fisherman, residing in or near Union Street (East) of Arbroath, by striking her several severe blows on the head, whereby her skull was fractured, and such injuries inflicted as caused the immediate death of the said Ann Swankie.'

The warrant for Cargill's committal to prison having been signed, preparations were made for his removal to the Railway Station, in transit to Dundee. It appeared to have been expected that the prisoner would be sent away by the 11.10 train, and a large crowd of people, among whom were many of the fisher folk, men and women, had assembled in front of the Police Office, apparently with the purpose of getting a glimpse of the prisoner. In the crowd were two persons whom everybody was disposed to commiserate, in the unhappy circumstances in which they were placed. These were the wife and the father of Cargill. Both of them were desirous to see him, and they repeatedly went into the Police Office for that purpose, but the authorities—who, however, treated them with the greatest tenderness—deemed it improper at that time to comply with their request. Hardly anything could be more distressing than the sight of the unhappy wife. As she stood in the front of the crowd, saying

nothing, looking at nobody, but with bent head, and countenance full of grief, she was a very picture of woe.

The crowd stood eagerly looking for the prisoner, and shortly before eleven o'clock they thought for an instant that they saw him coming out of the Office, in custody of an officer, but it was only a thief, who had that morning been convicted, and who was sent on to the Railway Station beforehand. The intention was to take Cargill to the Station in a cab, and one of the constables had been sent by Mr Milne to Mr Fleming, horse-hirer, to order one. It appeared, however, that Mr Fleming had been unwilling to let out one of his machines for that purpose. At anyrate, none was forthcoming, and after waiting impatiently till close upon the train hour, and no cab appearing, Mr Milne had to send out the prisoner on foot. At the last moment, he had, we believe, been promised the White Hart bus, which was to be in waiting at the Town House pond, but it turned out that there were a number of gentlemen in the bus going to the Station, and they objected either to coming out, or to taking in Cargill and the officers as companions. There was then nothing for it but to walk by way of High Street, Applegate, and Paumure Street, to the Catherine Street entrance to the Railway Station. This was the longest and most public route, but it was forced upon the police in the circumstances. We are satisfied that nobody more regrets than Mr Milne a publicity against which he thought he had made sufficient provision. Of course, the crowd accompanied the prisoner, and it was swelled as the melancholy procession proceeded, but the people made no demonstration of feeling other than that of curiosity, although naturally there is a strong feeling in the town against Cargill. The prisoner walked quietly. He did not look much about him, but appeared to be self-possessed. Arrived at the Station, he coolly asked what all the row was about. He was put into one of the waiting-rooms, along with officers, constables guarding the door outside. Here he had to remain for about a quarter of an hour for the arrival of the train, which was ten minutes late. David Gibson, one of his captors, states that at the Station he was recognised by Cargill. He had looked in at the window of the waiting-room, when Cargill threatened to pay him out for what he had done to him on the previous night. On the arrival of the train, some additional carriages were put on in front, and Cargill was put into a compartment of a second-class, as was also the convicted thief. Cargill was marched quickly along the platform, and with a sort of leap he got into the compartment. He was accompanied by Mr Milne; a detective officer of the Aberdeen constabulary, a friend of Mr Milne's; and Police-Sergeant Robertson. During the journey, he behaved quietly. He smoked most of the way, he having been allowed to retain his pipe, for the purpose of keeping him quiet. On the arrival of the train at East Dock Street Station, a cab was got, and the prisoner was taken up to the jail. There, he readily answered the questions put to him by the Governor, and walked quietly to his cell.

On Thursday evening, Mr Dunbar, Assistant Procurator-Fiscal, who had been telegraphed for, drove from Dundee to Arbroath, and recognised several witnesses. Yesterday, the prisoner was examined before the Sheriff at Dundee, and committed to prison for farther examination. Of course, any deposition which he may have uttered is meanwhile kept strictly private. The prisoner, however, seemed quite cool and collected, though, in accordance with his bearing all along, very unconcerned. Yesterday, Drs Arrott and Crichton made a *post mortem* examination of the body of the child, which had remained in the house in Ladybridge Street, with the police in charge. On the previous afternoon, the medical gentlemen had examined the body, and certified to the fact of death. We understand that the body was confined last night, and removed, after the *post mortem* examination, to the house of the bereaved parents.

We may mention that the father of the child did not know until yesterday of his bereavement. He was at sea on Thursday night, and had left at an early hour in

the afternoon. A boat's crew who left later told him that a child had been killed in Arbroath by William Cargill, but without adding whose child it was. On Swankie's boat coming in yesterday, Mr Beattie, agent for Messrs Johnston, fishcurers, went on board to tell the poor man of what had occurred, but, before anything had been said he at once divined that it was upon him that this heavy sorrow had fallen.

With regard to motive leading to the perpetration of this horrible deed, there does not appear to have been any whatever. To all appearance, the act was simply a mad outburst of ungovernable passion, which wreaked itself upon the first object that came near. Whether or not Cargill is insane is a different matter. His conduct during the last fortnight has been peculiar. He was skipper and part owner of a herring-boat, but the other owners, being afraid to go to sea with him, they agreed with the prisoner to sell the boat, and it was sold accordingly. He is said not to have been right since then. It is stated that he had been drinking, but we have heard that also denied, and the truth on these points must be ascertained by judicial investigation. Last Monday morning, Cargill got up and rang the church bell at Auchmithie, with the view of assembling the parishioners to church, and this act is supposed to indicate that the man was not in his senses. He has been at sea since then, and it is said that he cut away the drift of nets, and told his comrades to jump into the sea after them. Cargill is a man of about five feet six inches in height—strong and agile. There is nothing in his appearance that would attract special notice. His countenance is suggestive of no strong and violent passions; on the contrary, it has a not unpleasant expression. There is not known to have been anything between him and the parents of the slaughtered child leading to the idea that revenge had been the motive of the crime. We understand they were not mixed up in business. It is said they were related by marriage, one of Cargill's brothers being married to a sister of Mrs Swankie, but it is not supposed there was any unfriendliness between the families. Cargill was once before in the hands of the Arbroath police. In the end of 1861 he was apprehended on a charge of assaulting two men in School Wynd, and on that occasion forfeited 30s by non-appearance in Court. We may add that at Auchmithie he has been known by the 'bye-name' of 'Pair Will,' but what the adjective may have signified—whether, mental, pecuniary, or other defect—we are not aware. As we have stated, he has a wife, and, it is said, a large family.

With regard to the future disposal of the prisoner, there can of course be no doubt that he will be committed for trial. The Lords of Justiciary on the Northern Circuit sit at Dundee next Tuesday, but the case against Cargill will not be ready to be proceeded with then. It is not likely, however, that the trial will be postponed till next Circuit, and, if not, the prisoner will be tried at the High Court of Justiciary, in Edinburgh.

We need hardly add that this horrible occurrence has produced a most painful sensation in Arbroath. During these two days it has been nearly the sole subject of conversation, and the house in Ladybridge Street has been an object of interest to a number of loiterers there. It is some sixteen years since there was any case of murder or homicide in Arbroath. In the last case it was homicide that was proved, and the prisoner was sentenced to a short term of imprisonment.

THE LADYBRIDGE STREET MURDER.

There is not much to add to the full report of the horrible murder in Ladybridge Street which appeared in our columns last week. The remains of the poor child, Ann Swankie, the victim of this crime, were buried in the Abbey Churchyard last Sunday afternoon. The funeral was attended by a large company of mourners, among whom were nearly all the fishermen of the port. There were also many spectators of the melancholy procession, who appeared to sympathise deeply with the bereaved parents. The sad occurrence was referred to by several of the ministers in the church services on Sunday last. The fisher people of Arbroath and Auchmithie have been much affected by the horrible tragedy, but in the town generally the excitement to which it gave rise has now in great measure died down.

Mr Baxter, Procurator-Fiscal for the second district of the county, visited Arbroath last Monday morning, and sat all day in the White Hart Hotel precognoscing witnesses. The precognition was as usual taken in private. We may state, however, that among the principal persons examined were those from whose statements, as made to us, we were able to give our detailed report of the murder, so that that report, we believe, will be found correct, even to minute particulars. We hear that Mr Baxter is to be in Arbroath again on Monday next, for the purpose of continuing the precognition.

It is now known beyond all doubt that there was nothing whatever in the way of motive prompting to the commission of this atrocious crime. There is naturally, therefore, a good deal of speculation in the community as to whether the murderer, William Cargill, is sane or not. It is the opinion of all the inhabitants of Auchmithie, as well, we believe, of the fisher people here, that the man had been out of his mind for about four weeks before the murder was committed. How this was caused, and what, if anything, the sale of his boat had to do with it, must of course be ascertained otherwise than by discussion here. It appears that he had been acting in a peculiar manner. On the first or second day after the herring boat in which he had a share was sold, he went to the herring fishing in a small boat, and brought in 18 crans. With this result he was delighted, and he went about the quays speaking in a boastful, foolish way about his success, saying that no other fisherman, or none of his late comrades, could have done the same thing. The language of our informant is that his eyes were sparkling, and that he appeared in a wild state. This person says that he had been going wrong in his mind for some time. As we stated last week, the accounts are contradictory in regard to whether the unhappy man had been drinking, but it appears, at anyrate, that for some days before the murder he had been drinking little or none. His wife, we believe, states that he had tasted almost no drink for the last four weeks.

We have already reported that on Monday morning of last week, at half-past six o'clock, he rang the church bell at Auchmithie. This was for the purpose, as he said, of holding a prayer meeting. Attracted by the ringing of the bell at that unusual hour, the villagers turned out in large numbers, and in a few minutes the church was crowded to the door. Cargill repeated over to them the Lord's Prayer, and told them that if they wished to be saved they were to go south by south-west, for, said he, heaven is in that direction.

We have it from a trustworthy source that Cargill was not at all a quarrelsome man—rather of a quiet disposition. His appearance bears out the truth of this statement, for, as we formerly said, the expression of his countenance is rather pleasing than otherwise, and does not in the least suggest the presence of that mad passion which led to the

horrible murder of the child Ann Swankie. The appearance which he made in the Church of Auchmithie, as well as his odd conversation with the Magistrates in the Police Office here, leads to the inference that he had been more or less under the influence of what is called 'revivalism.' If so, his is a melancholy instance of the utter worthlessness, or worse, of religious excitement acting on a conscience unenlightened, and an understanding having no real knowledge.

We said last week that Cargill appears to be about thirty-five years of age, but we are now informed that he is only twenty-nine years old. He has a wife and four children, the youngest of whom is an infant of four months. It is painful to witness the distress into which the poor wife has been thrown by the calamity which has fallen upon her. We are told that she goes about Auchmithie a very picture of woe.

THE LADYBRIDGE STREET HOMICIDE CASE TRIAL OF WILLIAM CARGILL.

(By our own Reporter.)

The trial of William Cargill, fisherman, Auchmithie, on a charge of murdering the little girl Ann Cargill Swankie, in Ladybridge Street, Arbroath, on the 10th September last, took place before the High Court of Justiciary on Monday. The prisoner was removed to Edinburgh from Dundee prison, where he had been detained since his apprehension, on the previous Thursday, and the witnesses in the case from Arbroath and Auchmithie left for Edinburgh on Saturday afternoon. About nine o'clock on Monday morning these began to assemble in the Parliament Square, at the entrance-door for witnesses to the Justiciary Court-Room. Among them were the father and mother of the slaughtered child, with two of their other children—one, an infant carried in the mother's arms, and the other a girl a few years older than the deceased, who, with the mother, had been with her only an instant or so before the shocking deed was committed. The brother of the accused was also there, and a number of other fishers from Auchmithie—all respectably dressed. A minute or two past nine o'clock the attention of this sorrowful group was attracted by the arrival of the prison van from the Calton Jail, with Cargill, the accused, and some other prisoners, who alighted in the charge of officers, and were taken to the rooms below the Justiciary Court-Room. By about half-past nine o'clock, a few persons had assembled at the public entrance to the Court-Room, and those soon afterwards obtained admission. When murder cases are being tried, large crowds are generally attracted to the Justiciary Court, and many a crowd of that description has the Parliament Square witnessed. But, notwithstanding the horrible nature of the crime with which he was charged, the trial of Cargill did not seem to excite any interest in the city—possibly because the trial was supposed to be one with a foregone conclusion. An audience, however, which filled the Court-Room assembled, and listened attentively to the evidence of the witnesses for the prosecution and the defence.

The Lord Justice-Clerk took his seat on the bench at ten o'clock, and several cases of theft, occupying about half-an-hour, were despatched.

William Cargill was then placed at the bar, charged with the crime of murder, in so far as on the 10th day of September 1868, upon one or other of the days of that month, in or near the house or premises in or near Ladybridge Street of Arbroath, in the shire of Forfar, then and now or lately occupied by Jean Reid or Vannet, widow, public-house keeper, then and now or lately residing there, you the said William Cargill did, wickedly and feloniously, attack and assault the now deceased Ann Cargill Swankie, daughter of, and then residing with, David Swankie, fisherman, then and now or lately residing in or near Union Street East, in or near Arbroath aforesaid, and did with an iron poker or iron rod, or some other lethal weapon to the prosecutor unknown, strike the said Ann Cargill Swankie repeatedly or one or more times on or about the head, face, and other parts of her person, whereby she was mortally injured, and in consequence immediately or soon thereafter died, and was thus murdered by you the said William Cargill; and you the said William Cargill having been apprehended and taken before John Guthrie Smith, Esq., advocate, sheriff substitute of Forfarshire, for the purpose of emitting a declaration, did, in his presence at Dundee, on the 11th day of Sept. 1868, emit a declaration, or part of a declaration, at a certain stage of which the said John Guthrie Smith, considering the strange nature of your answers, and having doubts as to your state of mind, declined to proceed further at that time with the examination, which declaration or part of a declaration, with a minute to the above effect thereon, was subscribed by him in your presence; and you the said William Cargill having been afterwards taken before the said John Guthrie Smith, did, in his presence at Dundee, on the 10th day of October 1868, emit a declaration, which was subscribed by him in your presence, you having declared that you could not write. The indictment went on to state that these and other documents, including the medical report, were to be used against the prisoner.

The Solicitor-General, and Mr Robert Lee, Advocate-Depute, appeared for the Crown, and Mr W. L. Mair and

Mr J. McDougall Gibson, instructed by Messrs Winton & Alexander, solicitors, Arbroath, were for the defence.

The prisoner was brought up into the dock between two policemen, and he was handcuffed.

The SOLICITOR GENERAL—By whose authority is the prisoner manacled.

Mr MAIR—He has been kept so all along. He has been kept in a padded-room with two men watching him.

authority this has been done; is the governor of the Edinburgh Prison here?

The MAGER—He is not here.

The SOLICITOR GENERAL—Then send for him. The Solicitor-General afterwards ordered the prisoner to be removed, and requested two medical gentlemen to examine him, with the view of ascertaining whether he could be brought to the dock unmanacled.

Mr MAIR—I may mention that Dr Littlejohn stated to me that if the prisoner required the protection of manacles in the jail, he would require the same protection in the Court.

The SOLICITOR GENERAL—I know nothing of that. There has been no communication between the Crown and the authorities of the prison, and there is no plea at the bar, so he should appear in that state.

The medical gentlemen having returned to Court, the Solicitor-General consulted with them, and then intimated to the Court his readiness to put them in the witness-box and examine them as to whether the prisoner could be brought to the dock unmanacled.

The LORD JUSTICE CLERK—Perhaps you had better consult with the medical gentlemen yourself, and then take your own course.

The SOLICITOR GENERAL—I have done so. (To the Officer—Let the prisoner be brought up unmanacled.)

The prisoner was then brought to the dock unmanacled. He is a man about thirty years of age. In personal appearance he had changed considerably during the time he had been in prison. His whiskers had been shaved off, revealing high cheek-bones, and although he preserved a ruddy complexion, he seemed to be thinner than when he was apprehended. He wore the clothes he had on when the child was killed—a blue reefing jacket and vest, with mole-skin trousers. The prisoner had a somewhat awe-struck appearance on coming into Court, contrasting with the extreme levity of his conduct almost all through the trial. His look, however, might be that of a man bewildered by a strange scene, and not fully realising his position.

On being called on to plead, the prisoner mumbled that he was guilty, but added either that he was insane or that 'it wasna foreseen.' What the prisoner said was not distinctly heard, but it was understood that he meant to say that he was insane when the deed was done. A formal plea was then recorded to the effect that the panel pleaded generally not guilty, and that at the time the alleged crime was committed he was insane.

Mr MAIR, in answer to a question by the Lord Justice-Clerk, said he had no objection to the relevancy.

The following jury for the trial of the case was then empanelled:—Henry Russell, merchant, Bathgate; Archibald Stavert, farmer, Cockburnspath; James Carlisle, engineer, Hope Park Crescent; James Lauder, clothier, 15 Grove Street; James Cochran, jun., farmer, West Calder; Patrick Clark, spirit merchant, Coal Hill; Thomas Starrock, writer, Clarence Street; John Gullane, joiner, Haddington; Robert Gilbert, grocer, Yardheads; James Mitchell, jun., Bathgate; Thomas Anderson, builder, Constitution Street; John Turnbull, clothier, South Clerk Street; Robert Hogg, farmer, Rosemay; Robert Hamilton, wine and spirit merchant, Blair Street; and Robert Leishman, grocer, Canongate.

Mr MAIR then said that evidence would be adduced both by the Crown and himself in regard to the special plea, and he thought it would be desirable that the medical men on both sides should be present to hear what was stated. This was agreed to.

EVIDENCE FOR THE PROSECUTION.

John Todd, general dealer, was the first witness called. He deposed—I reside in the White Ship Inn, in Ladyloan, Arbroath, and have resided there since the 4th September last. I know Ladybridge Street. Mrs Jean Reid or Vannet keeps a public-house in that street. I was in Ladybridge Street on 10th September last, between three and four o'clock in the afternoon. I was coming up from the quay with some herrings in a cart. I saw a crowd at Mrs Vannet's. I stopped my cart and went forward to the crowd. I saw a man lying on upon the head of a child with a poker or such instrument. The man was inside the door leading to Mrs Vannet's house, at a private entrance.

The little girl was lying between the inner and outer doors. The man had not a hold of the girl, but was gripping the door with his right hand, and laying on with his left; she was lying at his feet. The girl was dead at that time. She showed no signs of feeling or existence of any sort. The man was blaspheming at the time he was striking. He said he was killing his father's devil.

By the COURT—He said the same thing over and over again.

By the SOLICITOR GENERAL—The prisoner was excited. I could not say there was anything unusual in his appearance. I think he continued to strike the girl for three or four minutes. The narrowness of the passage prevented any one going in to interfere. To distract the prisoner's attention, I heaved in a little dog. That had no effect, and he continued still to strike at the head of the little girl. A man named Higgins then came in with a whip, and three of us ran in on the prisoner. A man named Gibsou, who was one of those who ran in, was struck on the hand with the poker. We seized the man and put him on the ground, and kept him there. I had seen the man who was beating the girl. His name was Cargill. I knew he was a fisherman, but I did not know him to speak to. I buy and sell herrings, and was so engaged during last fishing season. (Identified Cargill.) I knew that Cargill was employed in the herring fishing during the season, and came into Arbroath. I cannot say whether he was skipper of his boat. I had seen the prisoner two or three days before the 10th at the harbour. At that time there was nothing unusual about his appearance. When the prisoner was overcome and thrown down he was afterwards taken to the Police Office. Gibson, Benson, Nicoll, and I took him there. No policeman were employed. He was carried. He was quite peaceable. He never spoke from the time we ran in on him till we got to the Police Office. When we went to the Police Office we handcuffed the prisoner. Gibson asked the prisoner then if he knew what he had done. He said he knew he had killed Swankie's bairn, his father's devil. He asked for a chew of tobacco from Gibson, and he got it. At the time he asked for the chew of tobacco he seemed sensible enough. There was nothing in his appearance at that time by which I was struck. He seemed quite composed. I never saw him again. The girl's head was very much injured, and the brain was protruding. I have no doubt she was dead when I went there.

By Mr MAIR—The prisoner continued to strike after the child was dead—repeatedly. I did not see him make any attempt to get hold of the body of the child when we ran in upon him. He did not make a grasp at it. The prisoner was in a state of perspiration when I saw him. He did not attempt to strike the dog when it was thrown in. He kicked at the legs of the child after it was dead. I did not speak to the prisoner before the murder. A good deal was said before going to the Police Office that the child was Swankie's. The prisoner might have heard that. I could not say I smelt drink on the prisoner. I had tasted myself.

David Gibson, fish-dealer, John Street, Arbroath—I was in Arbroath on the 10th September last. I have known the prisoner for eight or ten years. I remember seeing a woman running down Ladybridge Street on the afternoon of the 10th September, about four o'clock, crying, 'Murder.' She was saying that William Cargill had killed the bairn. I ran up to the spot. There was only one man, John Beattie, at the door at the time; he was looking on, and crying out. I looked in, and saw the prisoner beating the child on various parts of the body with a poker, and kicking it, and I cried, 'Oh you cruel monster, William.' That was all I said. The prisoner did not stop beating when I cried out. He cried something, but I could not tell what it was. When I first went forward the little girl was dead. I remained, and the prisoner continued to strike at the girl for about three quarters of an hour. (The prisoner laughed when the witness said so.)

The SOLICITOR GENERAL—And no one interfered all that time?

Witness—No; we could not interfere. We could not get at him. The prisoner struck with his left hand, and had hold of one of the doors with his right. I ran in upon him as soon as I could do so safely. When I gripped the prisoner by the throat, he said—'Wattie, don't kick me; I will not kick.' Some three or four persons carried the prisoner to the Police Office. I spoke to the prisoner in the Office; I asked him if he knew what he had done. He said he had killed Nelly Stewart's bairn, but it was his father's devil. He had a piece of paper in his hand, which he said was his father's will. Nelly Stewart was the mother of the girl. I did not take the paper from him. He asked from me a chew of tobacco. I said I had none. He said he was not asking any from me.

any from me, but if I would put my hand into his pocket I would find some. I took some tobacco out of the pocket, gave him a chew, and at his request put the remainder back. The prisoner was very excited. I could not say whether there was drink on the prisoner or not. I could not detect it by the smell, in consequence of my having had a glass myself. I thought he knew quite well what he was doing when he was in the Police Office. He was a little more come to himself when in the Police Office than when striking

the child. With the exception of the excitement there was nothing else noticeable in his appearance. I saw the prisoner going towards the dock about two and a half hours before the murder. I asked him how much herring he had got, and he said to or three crans. I deal in herring, but I had no transaction with the prisoner at that time. I passed on after I had spoken to him. There was nothing unusual in his appearance or manner. I was familiar with the prisoner, and I could not see anything different in his conduct from usual. There was nothing different that day from anything I have seen. I have seen the prisoner the worse of drink once or twice. I had seen the prisoner about twelve days before the occurrence. That was in George Hutton's public-house. He was the worse of drink, and was very had at that time. The prisoner was the worse of drink when he came into the public-house. My master's son asked him to stand a glass. He asked some from us, but his wife came in and took him away shortly after. He was then quite rational, but a good deal the worse of drink. I saw the prisoner about three weeks before the murder the worse of drink. He was going away in his boat. He was skipper of his boat, and was that day striking the crew. The pilots had to go after the boat, otherwise she would have been on the rocks. He was vowing he would do for the crew, and was something right and left about him. (Prisoner laughed.) The men in the boat were also the worse of drink. The boat was brought back, as no one was able to take charge of her. I had never seen the prisoner in such a state before. After that he went about his ordinary affairs. I had seen the prisoner often between the day I saw him in the boat and the time of the occurrence. I saw him on the Monday, in the forenoon. He was aboard his boat, along with his brother and another chap. The prisoner was preparing his boat for the nets. At that time there was nothing unusual in his appearance. The prisoner was at the helm when his boat came in on the day of the murder. There was nothing unusual in his appearance. When coming in at the harbour heads he cried out—'There is a ship out there with no men on board.' Two vessels had gone out that day, and they were still lying outside. The cry was addressed to those on the quay. (Shown poker.) I think that is the poker the prisoner used when striking the girl. I cannot say who took it to the police office. So far as I knew, the prisoner was always in his sound senses.

By Mr MAIR—The prisoner, I believe, has always resided in Auchmithie. I have been on familiar terms with the prisoner, and used to visit at his mother's house. I never lived in Auchmithie, but during the last eight or nine years I had gone back and forward to his mother's house. His mother died some years ago. I knew the prisoner by going to Auchmithie, and by seeing him in Arbroath. In Auchmithie he was called 'Pajie Will.' (Here the prisoner, who had been laughing quietly to himself for some time, burst out into a giggling laugh.) I do not know why he was called that. He was a peaceable man, so far as I saw—kind, and, generally speaking, sober. As far as I saw, he was not a man given to drink. When he cried there was a ship outside with no men, some of his own people said he was not right yet. No one went out to the vessel; nobody paid any attention to what he said. I heard nothing said by the prisoner about the ark. I thought the remark made by the prisoner was strange, but I did not pay attention to it; I was in a hurry to get to the Railway Station. I did not think there was anything wrong about the man when he could steer his boat.

The SOLICITOR-GENERAL—He did not see anything wrong about the prisoner.

Mr MAIR—That is his opinion.

The SOLICITOR-GENERAL—That is the medical opinion.

Witness—I had nothing to do with sending out to the ship. That did not lie in my line. I heard that the prisoner had rung the church bell at Auchmithie, but I did not speak to him on the subject.

Mr MAIR—Did you not think it unusual for a man to ring a bell at six o'clock in the morning?

Witness—No; I had nothing to do with that. (Laughter.) I could not make out what the prisoner said when he was striking the child. I did not hear the word devil. He continued to kick the body after the dog was thrown in.

By the SOLICITOR-GENERAL—On the day the boat was brought in one of the other men was the worse of drink.

By the COURT—I cannot say whether the prisoner was

muttering or whether he was saying something. I cannot say whether he was excited with drink. He appeared to me to be much in the same state as when I saw him three weeks before, when he was excited with drink. Wattie is my brother's name. There could be no doubt about the child being dead when the prisoner continued striking. When I was about to run on the prisoner he grinned his teeth at me for the purpose of preventing me, as I thought; I could not say whether the prisoner was always repeating the same thing when he was striking. He muttered something all the time.

John Beattie, white fisher, Johnshaven—I was in Mrs Vannet's public-house on the 10th September. I heard cries of 'Murder.' James White and my wife were with me at the time. When I heard the cries, Mrs Vannet came in and said, 'It's an awful way of doin' that William Cargill is kicking up in the house.' She did not then say what he was doing. I sat still in the room, and the cries of 'Murder' still continued. I afterwards ran out of the public-house and went to the private entrance to the house. I saw the prisoner between the inner and outer doors. He had a poker in his hand, but he was not doing anything at that time. A little girl was lying at the door, and one of her legs was shaking. She exhibited no other sign of life—uttered no groan or sound. I did not know who the girl was.

The SOLICITOR-GENERAL—Is this the man? (The prisoner who had been leaning forward on the railing of the dock, sat up.)

Witness—I could not say. I did not say anything to the prisoner. He struck the girl many times violently. I could not say if he spoke while dealing the blows. Gibson came over about ten minutes or a quarter of an hour after Cargill commenced to strike the girl. During that time the prisoner continued to strike the poor child. There was a crowd of men and women assembled, but no attempt was made by anybody to relieve the girl. Nobody would go in; they were afraid to interfere. I was inside the door, and I cried to prisoner to go ben the house, as some one wanted him. He went into the room. I then seized the girl by the arm. The door of the room was open. I was to pull the girl away. Before I had power he came out of the room with the poker again and commenced to strike the girl. He vowed to strike me with the poker. He shook the poker in my face, and I ran but, Cargill ran back to the inside door. The distance between the two doors may be about twelve feet. He did not follow me, and I did not hear him say anything when he retired to the door. He then commenced to strike the child again. Gibson came up, and an attempt was made to overcome the prisoner. I was not one of those who assisted to take him to the Police Office. Cargill was in an excited state, and was foaming at the mouth. I can hardly say how long that excitement continued. I am not able to say whether at that time there was any drink upon him. I did not know Cargill before.

By Mr MAIR—I did not think the prisoner was mad. He was mad in one way. He was very raised like, and I was frightened to go in on that account. All the people in the street were frightened. I could not say that he was acting like a person out of his mind.

Mr MAIR—Did you not think the man was mad in consequence of the way in which he was going on?

Witness—I could not say.

By the COURT—All the time I was present Cargill foamed about the mouth a great deal. His eyes were standing in his head like a wild man's. They had an unnatural appearance. I could not say that it was a fixed glare that was coming from his eyes. He was speaking the whole time, but I could not make out what he said.

LORD JUSTICE-CLERK—Did you not hear a single word?

Witness—Yes; but I could not understand what he said. I could not say if he continued to say the same thing. He was speaking loud. I was so much taken up with the girl that I did not notice what he said. The girl was visibly dead when she was struck the last time.

John Benson, potato dealer, Marketgate, Arbroath.—I saw the prisoner laying on the girl, who when I first saw her, was dead. She was lying between the doors. I was one of those who ran in upon the prisoner. It was a man named Higgins who gripped him first. It was not very hard to put him down; he struggled very little. He was outrageous looking. I did not take notice of the expression of his eyes. He was very raised in appearance. I heard somebody say to him that he had killed the child, but I did not hear what answer he gave. I knew the girl. I had frequently seen Cargill before, having known him these last six years. I have never seen anything wrong about him.

By Mr GIBSON—I could not say the prisoner was out of his senses; he was outrageous. I helped to convey him to the Police Office. I felt no smell of drink on him. I do not think he was drunk. He might have had a glass as well as myself.

Helen Stewart or Swankie, wife of David Swankie,

fisherman, Union Street East, Arbroath, who appeared in Court with an infant in her arms, deposed—I was in Mrs Vannet's public-house on the 10th September last. My daughters Jean, and Ann Cargill Swankie were with me. I went in to get a drink of water to them, which I got. I was there just as long as I got the water. As I came out I met Thomas Cargill. Both my girls were then with me. I spoke to Thomas Cargill for three or four minutes. I heard Mrs Brodie cry out a loud cry—'Oh my, its done now!' When I heard that I looked across my shoulder and said to my oldest lassie Jean, 'Jean, where is my Annie,' and she said she did not know. I turned round and rushed forward to the door, and saw my little Annie lying in the passage between two doors. I never heard her cry or moan. The man that did the deed was standing inside the door of the room he did it in. He was holding a poker in his right hand. Thomas Cargill kept me back from going into the room. The man with the poker could see me, and I saw him quite well. He said when he saw me coming forward, 'Now, you — of —, I've done for her now, and I'll do for you.' I saw it was the prisoner. The prisoner's oldest brother is married to a sister of mine. I had no acquaintance of the prisoner, although I knew him. The more people offered to come in, the more he struck the child. After he uttered the oath he struck the girl, and that was the first blow I saw given. I did not stop any time. My child was very much injured. The brains were scattered.

By Mr MAIR—My husband had no acquaintance with the prisoner. My husband nor I had never any quarrel with the prisoner. He had no ill-feeling to us; he could not. I don't think he ever saw the girl before.

(During the whole period of the examination of this witness, the prisoner, in marked contrast with his conduct during the previous and subsequent part of the proceedings, laughed none, and did not lift his head from off the dock rail.)

Jean Swankie (eleven years of age), daughter of the preceding witness, being cautioned to tell the truth, deposed that she and her sister Ann were standing beside their mother outside Mrs Vannet's house. She did not see her sister go away, but afterwards saw her lying inside the next door. A man was standing with a poker in his hand beside her. The man said if her mother came in he would do the same for her. She never saw her sister move.

Joan Reid or Vannet, widow, public-house keeper, Ladybridge Street.—I know the prisoner at the bar. There is a room in my house called the fisherman's room. Prisoner has come to my house during the day at the fishing season for the last three years. The whole crew, five besides himself, came there. Sometimes they got their meals there, and sometimes got refreshments by way of drink, or else went home. I mind of Thursday the 10th September. I saw the prisoner in Ladybridge Street about two o'clock. Nobody was with him. I heard he was going with a spy-glass. I could not say there was anything unusual in his appearance. He passed my window on the opposite side of the street. Soon after that he came to the shop alone; he said he had come for the key of the door; but his wife had it, and he went away. So far as I saw, his appearance was just as usual. I was not aware he was in the room till I heard knocking. It was about three-quarters of an hour before the thing happened that I heard knocking, I would say. The knocking was on the wall. I concluded that it would be William Cargill who was knocking. This I did from what I had heard before the same day. I sent for Mrs Cargill, and bade her go for a doctor. After she had gone away, Mrs Swankie and her children came into my house for a drink of water, and went out by the front door. The knocking and the crying still continued, and I went and locked the front door. Afterwards I heard cries of murder. But I remained in the shop. I did not supply drink to the prisoner, but I did to some of his crew. So far as I was aware, the prisoner got no drink that day. I saw the prisoner the worse of drink about three weeks before the murder. Generally he was a sober man. It never occurred to me that the prisoner was out of his mind, but I heard the people say that he was.

By Mr MAIR—I heard knocking and wild cries like a beast when Cargill was in the fisherman's room. I went for his wife, for I was afraid he would come in to me and do harm to me or himself. These were my reasons for advising them to go away for a doctor.

Dr Arrott, Arbroath—I was called along with Dr Crichton to make a post-mortem examination of the body of the girl Ann Cargill Swankie. The examination was made on the 11th September. Witness read the report, which was as follows:—

At Arbroath, the 11th day of September 1868.

We, the undersigned, David Arrott, physician in Arbroath, and James Smith Crichton, physician there, did this day, by virtue of a warrant from J. Guthrie Smith, Sheriff Substitute of Forfar shire, and within the premises of Mrs Vannet, situated in Ladybridge Street of Arbroath, dissect and examine the body of Ann Swankie, daughter of David Swankie, and have now to give in

the following report.—

The body appeared to be that of a female child of about five years old. The regis mortis was complete. The abdomen was considerably distended with gas. There was a small wound on the inside of the right leg a little above the ankle. There was a fracture of the left clavicle. The cartilage of the left ear was divided. There was a deep wound about an inch long on the middle of the forehead, and a slighter one on the left cheek. The scalp over the left side of the head was extensively torn and separated from the bones. The parietal bone of the same side was smashed, and some fragments of it wanting. The temporal bone was also fractured and driven in upon the brain, and the adjoining part of the occipital bone was also depressed. The parietal of the right side was detached at the sutures and depressed. Over a surface corresponding to the left parietal bone the membranes of the brain were all gone, and the brain, which was healthy in appearance, was much torn and broken up through nearly its whole extent, and a considerable portion of it, corresponding to what was saw scattered about the room, was wanting.

We next inspected the cavity of the chest. All the thoracic viscera were healthy.

On opening the abdomen we found its contents healthy, the only thing remarkable being the distension of the intestines, corresponding to the external appearance above mentioned.

We are of opinion that the deceased Ann Swankie died in consequence of injuries of the brain; that those injuries were most likely inflicted with a blunt instrument; and that they must have proved rapidly fatal.

All this we believe to be true, and hereby certify on soul and conscience.

(Signed) DAVID ARROTT, M.D.
JAMES S. CRICHTON, M.D.

That is a true report. I saw some of the brain scattered about the room. A poker is such an instrument as could have inflicted the injuries mentioned.

Dr Crichton deposed to the report being a true report.

Angus M'Intosh, police sergeant, Arbroath—I know the prisoner, and remember of him being brought to the Police Office about four o'clock on the afternoon of the 10th September. He was carried in. When he was brought in he was in a very excited condition. He was excited both in his appearance and action. I told him I had to detain him for killing his child. He said it was not his child, it was Helen Stewart's child. I said nothing more to him, and he said nothing to me. I left him in charge of some of the men who took him in. I went to write down the charge. Before I went away the prisoner was handcuffed at the suggestion of the people who brought him in. I concurred in that suggestion, knowing the serious nature of the charge brought against him. There was no other officer in the office at the time but myself. Cargill was very outrageous like. He cried out immediately he was handcuffed and brought into the back-room, 'Kill me; hang me.' He was very excited, and froth was all about his lips. I could not say that the prisoner was under the influence of drink. If he had any drink I did not smell it. The prisoner that night was detained in a police-cell in charge of two officers, and next morning he did not seem excited. I did not speak to him. He was taken away in the course of the forenoon to Dundee, under the charge of two officers.

By Mr MAIR—The prisoner said in the Police Office that he had killed her for his father's devil. He said that repeatedly. I thought he was like a man in *delirium tremens*.

(The prisoner laughed a great deal during the examination of this witness.)

Alexander Joss, police constable, Arbroath—I remember seeing the prisoner in one of the rooms of the police office with some other men. He was wet-like about the face with perspiration or water. He was excited, looked strange, and answered questions strangely. Witness was one of the constables who watched the prisoner. He was with him from five o'clock that afternoon till eleven. The prisoner's speech was very peculiar during the night. There was a crowd collected at the office, and the prisoner in his cell heard some of the children speaking. He said—'They told me that the child was dead, but I knew she was not dead; her legs were only broken.' He repeated about killing his father's devil.

The SOLICITOR-GENERAL—Did you think that the man did not know what he was saying, or that he spoke what he was saying under some delusion?

Witness—I think he was labouring under some delusion. He appeared to know what I said to him. I talked to him in the same way he talked to me. I humoured him. The prisoner never attempted violence. When I went into the office for a drink for him, I heard some of his friends speaking about a bank cheque. I saw some paper in his hand, and I said it might be the cheque. The sergeant came to the cell and asked the prisoner to give up the paper. He declined to do so, and it seemed that violence would be required to get the paper from him. I afterwards asked if he would give me the paper, as his hands were

bloody, and I would wrap it up in a paper. He gave me it, and it turned out to be a bank cheque for £19. I gave it to the sergeant, and I then gave back to the prisoner a piece of paper wrapped up. He took it, and held it in his hand as he had held the cheque. Holding the paper in his hand, he said—'As long as I have this gift from God I am able to do anything, and if I had not got power over this devil, mankind would have lost.' He said he had gained a great victory by so doing. He seemed as if suffering under some delusion.

The SOLICITOR-GENERAL—Do you think he believed what he was telling you?

Witness—Yes. When going away to the train, the next day, he had still the paper in his hand, and he said, 'We are going away with Noah's ark.'

The SOLICITOR-GENERAL—Where to?

Witness—I did not ask.

The SOLICITOR-GENERAL—And he did not tell you?

Witness—No.

The SOLICITOR-GENERAL—Had he been told by this time he was going to Dundee?

Witness—Yes.

The SOLICITOR-GENERAL—Had there been anything said about the ark before this?

Witness—He spoke about the ark once before that, during the night previous to going away.

The SOLICITOR-GENERAL—What did he say?

Witness—He said, when they were coming into the harbour, the night before, he said to those in the boat, 'There is the ark coming down in the shape of a schooner.' He also said he saw the angels mounting up. The crew of the boat said it was not true, but he said he knew better.

The SOLICITOR-GENERAL—Did he state that of himself? Had you been asking if he saw any schooner or ship?

Witness—No.

The SOLICITOR-GENERAL—Had that anything to do with what you were speaking about before?

Witness—No. He was always speaking in one strain—about his Heavenly Father.

The SOLICITOR-GENERAL—Did he sleep any that night? Did he lie down?

Witness—No.

The SOLICITOR-GENERAL—Why not?

Witness—There is no bed in the cell. He might have slept, but he walked about. Next morning, as he was going to the station, the prisoner saw his father and recognised him. He asked him for a chew of tobacco, and said—'Come away, father; there's room for us all.' (Witness identified the bank cheque.) There is blood on the cheque. The prisoner's hands were smeared with blood; but there was no wound on them.

By Mr MAIR—I remember of the prisoner speaking in the office about the devil. He said he had killed his father's devil. He had a wild-like appearance. When the prisoner was being watched he said that if he called on his Heavenly Father he would send a legion of angels to take them (the watchmen) away. I asked him if he was not sorry for what he had done, and he said, 'No; that if he had not killed the devil they would have been all lost.' He always called the bank cheque a gift from his Heavenly Father. When asked if he was sorry for what he had done, he said, 'No. I have gained a great victory. If I had not killed him we would have been all lost.' He referred once or twice to the serpent and the devil, and said there was one to kill yet.

Mr MAIR—Did he say that the serpent required to be killed before they could be saved?

Witness—I could not say.

Mr MAIR—Was he singing that night?

Witness—Yes, he sang sometimes.

Mr MAIR—What did he sing?

Witness—He sang what are called revival hymns—divine songs.

(Here the prisoner commenced to whistle lowly a revival hymn tune.)

Witness—One of the hymns had the words, in it—'Father! Father! save me.'

Mr MAIR—Was there any other?

Witness—Yes, there was the Hallelujah.

Mr MAIR—Did he seem quite pleased at this time?

Witness—Yes, he seemed very happy.

Mr MAIR—Did he shout out when he was singing?

Witness—Yes, at the top of his voice.

Mr MAIR—Had he any smell of drink about him?

Witness—No.

Mr MAIR—Did it occur to you that drink was the matter with him?

Witness—No; he might have had drink, but I did not feel the smell.

Mr MAIR—He said something about the ark lying out in the sea to take them all away.

Witness—Yes. He said that the ark was lying out in the sea, and that the angels were ascending. He said that

the sea, and that the angels were ascending. He said that in the boat, and told the crew he could prove it.

Mr MAIR—Did he say anything about the ark when you spoke to him about going to Dundee?

Witness—Yes. He said he was to join the ark; that it had left the harbour and gone up to Dundee.

Mr MAIR—Did he say what he was going to do with the ark?

Witness—He said the ark was to take away mankind.

Mr MAIR—Did he say anything about the devil at that time?

Witness—No; not that I remember.

Mr MAIR—Did he say anything during the night about having seen the devil the night before?

Witness—Yes. He said he heard the devil in the bottom of the boat; that he got up and ran to the end, and that he ran after him. He made a kick at the devil, and thought he hit him. The devil afterwards went through the bottom of the boat.

Mr MAIR—Although there is no bed for sleeping upon in the cell, I suppose prisoners generally lie upon the floor?

Witness—Yes.

The SOLICITOR-GENERAL—There is plenty of room, and nothing but room, I suppose? (Laughter.)

Witness—He showed no desire to sleep.

The SOLICITOR-GENERAL—Did he say that what had occurred was really a thing that had occurred the night before?

Witness—Yes.

The LORD JUSTICE-CLERK—Did you consider him to be telling sincerely what he believed at the time?

Witness—I did.

The LORD JUSTICE-CLERK—You never suspected that he was shamming or pretending?

Witness—It never occurred to me.

John Milne, Superintendent of Police, Arbroath—I remember the day on which the prisoner was brought to the police office. I saw him there about ten minutes or a quarter of an hour past four o'clock. He was in the muster-room, and the persons who brought him there with him. He complained to me of having been ill-used by the persons who brought him to the police office; he said they pulled him about, pulled his hair, and twisted his arms. I cleared them all out of the room. I was at my dinner when the affair occurred; immediately on hearing of it, I went to the place in Ladybridge Street, so that before going to the office I was aware of the charge against the prisoner. When he made his complaint to me, the prisoner appeared to know perfectly well what he was saying. He was not excited, but spoke coolly and deliberately. I said to him, 'I suspect you have been drinking to-day,' and he said he had only had two "nips." I smelt drink, but although there were other persons in the room my impression was that it was from him the smell came, and I still think so. I thought from his manner of acting that he was under the influence of drink. After being some time in the place he appeared to see things in corners of the room, such as a person in delirium might see, and he fixed his eyes as if seeing something. His whole bearing was defiant, and as if he had gained a victory over something. I was under the impression that he was touched with *delirium tremens*, and that he believed he saw things. He said he had killed the devil, but indicated that he had another devil to kill. He did not seem to be afraid at the things he saw; he was exulting at having killed his father's devil. I asked some questions of no importance at him, and he gave me distinct answers. Next morning I found the prisoner quiet; he spoke little. He told me he had slept none all night. Breakfast was offered to him, but he could not eat. I conveyed him to Dundee. He was very peaceable when he went away. He was obedient and quiet. To keep him so, I allowed him to smoke in the carriage, and he smoked two pipes. There was nothing unusual in his conduct. He made remarks at seeing ships in the sea, and what he said was quite true.

By Mr MAIR—He bandied a little with the doctors who came to see him. He said they were very clever; but it was quite true that he had killed a devil. He did not say why he had killed the devil, but said he had another to kill. The prisoner was wild and excited, and there was blood about his lips. He appeared to be a person come out of a passion.

By the Court—On the first occasion I heard him talking about the devils I thought he was saying what he believed, as I thought him in *delirium tremens*. But I had reason to doubt it afterwards, when he repeated the same things the next day, and at the same time did what he was bid.

Alex. M'Queen, governor of Dundee prison—I received the prisoner in Dundee on the 11th Sept. His face was flushed, and he appeared as if he would frighten and intimidate me. He was handcuffed. I ordered the handcuffs to be taken off,

and had him locked up, I have seen him three or four times a-day up till Thursday last, when he was removed to Edinburgh. On two occasions he has been rather outrageous. I put another prisoner in with Cargill. The second night I was aroused between ten and eleven o'clock because the prisoner attempted to strangle his fellow-prisoner. Cargill admitted he had done wrong. When I saw him he was quite self-possessed, and knew what he was doing and saying. This having occurred, Cargill was put under restraint, and

the other prisoner was kept in the cell till the following day, when Cargill's companion was changed, and ten days after the restraints were taken off. On the 30th October, between six and seven o'clock, he became violent, and attempted to intimidate the chaplain and others. His fellow-prisoners said that Cargill had assaulted them because they had threatened to tell the officer he was shamming or feigning to be deaf. Cargill did not say anything to that—he was quite silent. Cargill on the 30th October became violent and used threats to the chaplain and 'boords' at him because of some remarks he had made in his sermon. I thought Cargill was not mad.

By Mr MAIR—I heard him allude once to the devil. It was during a visit his father made to him, about nine days after he was brought to the prison. He had made inquiries about his various friends, and his father made some remark, and the prisoner made use of an expression about the devil, and the grace of God. I think a crown of glory was mentioned also. I was present to prevent anything being said about this case. The prisoner did not sleep well during the night, but slept during the day. I gave no instructions to have the prisoner handcuffed after he came to Edinburgh.

By the COURT—What the prisoner said was in a conversation between him and his father. That was the only occasion on which I heard him make reference to the devil. He accused one of his fellow-prisoners of assaulting him. On that occasion he was bleeding in the face. They said he had attempted to kick them.

John Guthrie Smith, Sheriff-Substitute of Forfarshire.—The prisoner was brought before me on the 11th September for judicial examination. I noticed that the expression of his eye was of a very restless and unusual character; and I did not think it right to allow the examination until I saw how he answered the first questions. There was nothing at this stage to render it necessary to desist from proceeding with the examination. I explained the charge and cautioned him in the usual way, and to the first questions which were put to him he gave rational enough answers. Witness then read the following declaration:—

At Dundee, the 11th day of September 1868, in presence of John Guthrie Smith, Sheriff-Substitute of Forfar—Compeared a prisoner, and the charge against him having been read over and explained to him, and he having been judicially admonished and examined thereon, declared as follows: My name is William Cargill. I am married, and aged thirty years. Am a fisherman, and reside at Auchinlathie. For some time back I have been residing in the room at Ladybridge Street Arbroath, which was sublet to me by Mrs Vannet. I do not know anything of Ann Swankie, daughter of David Swankie. There was no little girl in my room yesterday afternoon. I did not assault or strike with a poker, or any instrument, any girl in my house yesterday. I was at sea the night before fishing, and arrived with my boat about nine o'clock in the morning at Arbroath. I had a nip of whisky when I landed, and in about an hour after I had another nip of whisky. That was all the liquor I had during the day. I was taken to the Police Office from my own house yesterday afternoon by a number of men, who tore my hair, beat me, and used me very ill. Interrogated: What did they take you to the Police Office for? I declare it was for killing the devil. It was made up between God and the devil, and I was to fight the devil. I think I killed the devil, but not the serpent. I did it with a broom-beam and a poker. The devil whom I killed was about the size of a good big child. The devil was in my boat, and was looking through my kit while I was lying in the Lord's arms. I dragged him to the shore by the rope.

Witness continued—At this stage of the examination I had doubts as to the prisoner's state of mind in consequence of his strange answers, and I declined to proceed farther with the examination. I saw nothing to make me think the man was shamming. The prisoner answered the questions in a calm and collected manner, and I think he understood my questions and his answers. The prisoner was brought before me again on the 10th October, and I had requested Dr Duncan to be present. The doctor said the prisoner was in his sound and sober senses, and fit to be examined. The only difference I noticed on the prisoner was the expression of his eye, which was very much changed, and he was altogether more subdued than he was the first time I saw him. Witness then read the second declaration:—

At Dundee, the 10th day of October, in presence of J. Guthrie Smith, Sheriff-Substitute, compeared William Cargill, presently prisoner in Dundee Prison, and the declaration emitted by him before the said Sheriff-Substitute at Dundee upon the 11th September last having been read over to him, and the charge against

him having been read over and explained to him, and he having been again judicially admonished and examined, declares—I mind a little of being brought before the Sheriff for examination on the 11th September last. I recollect a little; I think, of what I said on that occasion. I mind of saying something about the devil. Interrogated—What do you think of it now? I declare, oh! I think I was wrong. Interrogated—Do you remember of striking the girl now? I declare I recollect a little in full. I have very little to say about it. I can only say that I would not have done it had I been in my right state of mind. I don't recollect of ever having seen the girl before that day. I had been two years stopping in Mrs Vannet's house during the herring fishing. I cannot understand how the girl came to be in the house. I do not think any of us ever saw her there before. Interrogated—Do you wish to say anything further? I declare I do not recollect of having an iron poker in my hand. There may have been a poker in the house, but I do not mind ever seeing it before. All which I declare to be true. I declare I cannot write.

Cross-examined by Mr MAIR—The expression of the prisoner's eye indicated great mental excitement, but whether that was the result of drinking or from another cause I can form no opinion. For the mental excitement there was a remarkable composure of manner. I saw nothing to indicate that he was shamming. He told the story about the devil in the same way in which he had answered the other questions. It was not volunteered; he told it in answering to a question what he had been taken up for. I thought he was labouring under a delusion. I gave instructions to the Fiscal to have him brought up for examination whenever the medical officer said he was in a condition to be examined.

Alexander Butter, clerk in the Sheriff Clerk's office, Dundee, identified the declaration, and deposed that the prisoner freely answered the questions put to him.

Dr Arrott was re-examined. He deposed—I saw the prisoner on the 10th and 11th Sept. I saw him in the Police Office on the afternoon of the 10th. When I was present there were a police constable and several other persons in the room with the prisoner. I was aware of the crime with which the prisoner was charged. It was through curiosity I went to see him. I wanted to see who had done the deed. The prisoner was under restraint, he was dirty, his clothes were wet, there was blood about him, and he had altogether a wild, excited appearance. He seemed to be labouring under great excitement. His outer man gave appearance of great mental excitement. I went away under the impression I had seen a drunk man. I satisfied myself that he had the smell of drink. His acts and words appeared to me to be those of a man labouring under drink. I have seen so many drunk men in my day that I know what a drunk man is like, and am satisfied that the prisoner's condition was due to drink acting on an ill-regulated mind. At nine o'clock that night he was not so excited. The prisoner's gaze was softened, and he looked like a man who was beginning to come to himself. My opinion of him never changed. I saw him on the morning of the 11th for half an hour. He was then calmer, but, if I may call alcoholic excitement a disease, I considered the condition of the prisoner on the 11th another phase of the same disorder. I have seen similar manifestations due to drink. After the 11th September, I never saw the prisoner again till to-day. I decline to answer questions as to his present mental condition, for I have not had sufficient opportunity of observation. I have had my own opinion as to the conduct of the prisoner in Court. Nothing has been said by any of the witnesses to alter my opinion as to drink being the cause of the homicide.

By the COURT—I have reason to think that the prisoner was under delusions. I do not believe he feigned anything. I asked him, Do you really believe that you have killed the devil? He said, No, but he had killed the serpent. I said—Are not the devil and the serpent one and the same? No, no, said he, that is your ignorance. (Laughter.) I believe he did kill the child believing that he was killing a devil. Whatever may have been the source of these mental delusions, they existed in his mind at the time.

The LORD JUSTICE-CLERK—Is it your opinion that the prisoner, while under these delusions you speak of, was capable of distinguishing between right and wrong?

Witness—I think he was utterly incapable of distinguishing between right and wrong. I think it was a case of delirium, caused by drink, but without tremor.

Dr J. S. Crichton, re-examined—The appearance of the prisoner when I saw him in the Police Office on the 10th September led me to believe that he was suffering from the effects of drink. I could not call it a case of *delirium tremens*.

By the COURT—It was a case of delirium produced by alcohol.

By the SOLICITOR-GENERAL—When I saw the prisoner on the morning of the 11th September, he was still labouring under delusions, but not to the same extent. He was quieter. He seemed to know what I said to him, but gave

very confused answers. Delusions about devils and serpents are the most common form of delusions caused by drink.

By Mr MAIR—I was with the prisoner about a quarter of an hour. He told me that he had killed one devil, and regretted that he had not been able to kill more. He said he had a commission from God to kill them, and he seemed very much gratified with his success. I was convinced that he really believed what he said. A person suffering as the prisoner did might be able to transact his business, and might suddenly be overcome with these delusions.

Mr MAIR—If you were informed that the prisoner had been chasing a devil in his boat the night before the murder, and had caused all the crew to fall down on their knees and pray to God, as they had only a quarter of an hour to live, and had put one of them overboard, would you be surprised if he committed a serious crime?

Witness—The knowledge of these circumstances would prepare me so far for such an event. The prisoner had a distorted idea; he knew he was killing something, but did not know he was killing a child. I believe that, whatever may have been the cause of it, he was for the time bereft of reason.

Re-examined by the SOLICITOR-GENERAL—The prisoner was bereft of reason so far as his delusions were concerned. I believe, as a matter of fact, that he did not know it was a child he was killing.

The SOLICITOR-GENERAL—Do you believe that, when he spoke of killing Nelly Stewart's bairn?

Witness—I believe that, from the confused state of mind in which he was, he stupidly knew the meaning of what he was saying.

By the COURT—The delusions might be caused otherwise than by drink, but I feel myself shut up to believe that they were caused by drink. He might not have taken drink in any great quantities, but steadily for some days. I was struck by the absence of any glare in his eye; it was restless, but not brilliant.

Dr Rorie, medical superintendent of the Dundee Lunatic Asylum—I saw the prisoner on the 22nd, 25th, and 29th September, and once a week since then. I examined him, and failed to detect any symptoms of insanity. The only thing which I saw was on the 22nd, when he had a doubt whether he had really killed a child or something else. At first he told me he had been sent to prison for killing the devil, but afterwards he began to perceive that he had killed a child while labouring under the delusion that he was killing the devil. I thought he was sane all the time. The story the prisoner told was this—A week or ten days before the murder, Christ appeared at his bedside, and told him to lead a new life, but the devil appeared to him, and wished to bring him back to his old evil ways, and especially on the day before the child's death, when he was at the herring fishing, the devil appeared to him in his boat. When he went into Mrs Vanner's house he heard the devil making a noise on the roof. He went out to watch, and saw a little girl coming in; and he killed the girl under the impression that she was the devil. I believe the story was a true account as to how the prisoner felt and acted when he committed the act. In conversation with the prisoner I learned an important fact—that he had been twice seized with fits, one of them two or three years ago, and the other a few weeks before this occurrence. From the description of the fit, I had no doubt it was an epileptic fit. The prisoner stated to me that he had not been drinking much before the 10th September, though he had been drinking pretty freely before the time at which he said Christ appeared at his bedside, but that that was a week or ten days before the murder, and on that day he had only two 'nips' of rum. About the 27th October the prisoner appeared to be feigning to be more stupid than he really was.

By Mr MAIR—I believe that at the time of the murder the prisoner was labouring under disease of the mind, so as not to know the nature and quality of the act he was committing.

By the COURT—I do not believe the prisoner to have been suffering under *delirium tremens*. My opinion of the case is that for a week or ten days before the occurrence in question the prisoner had been seized with a form of religious mania, which had gradually developed into a belief that he was haunted by the devil, and that when he killed the child he did so under the distinct impression that he was killing the devil. I believe that at the time when the prisoner committed the act he believed he was doing right and not wrong.

This closed the case for the Crown.

EXCULPATORY EVIDENCE.

William Crabbe, blacksmith, deponed—I have known the prisoner for seven years. On the Monday morning before the murder, the prisoner got the church bell, and rang it through the village. It is a hand bell. This was about half-past six o'clock in the morning. I saw him half an

hour afterwards, and his little boy was with him. He asked me if I was not going to church, and I said, No. When I saw him ringing the bell, I thought he was not right in his mind. I never saw him the worse of drink. He was a sober, steady man.

By the SOLICITOR-GENERAL—I never saw anything peculiar in the prisoner's conduct before this time. He went about his work like other fishermen.

Eliza Adanson or Brown, postmistress, Auchmithie—I have known the prisoner all his life. He was a sober, quiet, good-natured man.

Mr MAIR—Do you know whether any of his relations have been in a lunatic asylum?

The SOLICITOR-GENERAL objected to this question, and Mr Mair did not press it.

The Witness continued—I kept the church-bell. On the Monday before the girl's death the prisoner came to me and asked the bell to alarm the people. He got it, and went along the village ringing it. He bore the nickname 'Fair Will.' About half an hour afterwards he came to me and got the keys of the church. He asked me to go with him to the church, and I went. When we got into the church he asked me to sing a psalm. A number of people assembled. He sang the 23rd Psalm, and read the 28th chapter of 1st Samuel. Then another psalm was sung, and then he said part of the Lord's Prayer. He said that all persons who wanted to be saved should bring their boats and money and lay them down, and then he lifted up his hand, and said 'he saw the heavens opened, and it was soul-sou'-west' (Laughter.) He stood at the foot of the pulpit all the time. I did not think he was right in his mind. He seemed to be low-spirited on that occasion, and hung down his head. On the previous Sunday he was very restless in church, and seemed as if always about to speak.

By the SOLICITOR-GENERAL—The prisoner always went about his business like other people. There was nothing remarkable in his behaviour. It never occurred to me up to this time that he was of insane mind. When he called at my house in the morning he appeared to be a little furried. At the church, he was the first person who spoke; he asked somebody to read. I have seen him under the influence of drink, but not during last fishing season. All the fishermen have bye-names.

Thomas Spink, fisherman, Auchmithie—I have known the prisoner as long as I can mind. I was at the church at Auchmithie on the Monday morning. Prisoner was perfectly sober, and wished me to sing a psalm. He said the Lord had appeared to him that morning; that heaven had opened, and that it bore south by west from the place they went to fish. While he was speaking he tore his hair, and seemed very much excited, and added that he had a great deal more on his memory, but it was gone. I told him he had said quite plenty. I never saw him in that state before. I went to the church to see what he wanted. He spoke to me after we left the church, and told us to keep away from drink. The next time I saw him was on the following Wednesday, at Montrose. He was going home in his boat. He was sober. The prisoner is a sober man, quiet, and good-natured.

By the SOLICITOR-GENERAL—I cannot tell why it was that he told us to keep away from drink. It was a general exhortation. A week or ten days before he was a little under the influence of drink. Between that time and the Monday morning I do not recollect of having seen him, except on the Sunday. On both these occasions he was perfectly sober.

James Cargill, fisherman, Auchmithie—I am the prisoner's brother. He cannot read nor write. All the rest of us can read and write. On the day before the death of Ann Swankie, the prisoner, Alexander Cargill, and David Cargill, myself, and a boy, left Montrose in the boat. We had no drink with us. My brother was offered drink, but refused it. The prisoner fancied he heard knockings in the boat. He had been very sleepless during the preceding nights. On the Wednesday night that we left Montrose there was a marked change in his manner. He called out 'Glory, glory, to the Lamb!' and made all the crew stand up at the mast, and do the same. We were afraid of him, and did as he desired us. He made Alexander Cargill stand on the fore part of the boat, and he then threw him overboard. Alexander caught hold of the side, however, and was pulled on board. All this time the prisoner was very excited, singing, and telling them he saw Jesus walking on the sea, and that he was not afraid of a storm. He let go the nets, and allowed them to drift; and, when I tried to prevent him, he pulled out his watch, and said he would give it to me if I would let the nets go. He told me the ark was coming down, and that I had only three or four minutes to live. He also said, 'Father, calm the sea.' We all began to weep, because we thought his mind was giving

way. We got into Arbroath Harbour about two o'clock; and at that time he lifted the hatch, and cried that the devil was on board, but that he could not catch him. I went with my brother and got dinner. We had no drink. While we were eating our dinner, he said, 'Alick, we'll need to go off to the ark again.' I saw the prisoner's wife, and told her what had happened, and my determination not to go to sea with him again. We caught two crans of herring that night.

By the SOLICITOR-GENERAL—My brother owned the boat, and acted as skipper. I have seen my brother the worse of drink. On the Thursday my brother did not taste drink as far as I saw, and he left me for the purpose of going for a spyglass to see the ark.

Alexander Cargill, fisherman, Auchmithie, corroborated what had been stated regarding the ringing of the bell. The witness continued—When we were out at sea, he asked us to 'redd up' the boat, as he said we would have too many fish. We then went to 'hail.'

Mr MAIR—To hell?

Witness—To take in the nets, that is. (Laughter.) When we were returning from Montrose, the prisoner was jumping about in the boat. He had no sleep; some of us slept. The prisoner sang hymns, one of which began, 'There is a fountain filled with blood.' We were forced to join him in singing, as we were afraid. We were all crying, and he said, 'Stop that, for I have got enough for you.' He afterwards came out from below the sail, and said, 'Do you see Jesus walking on the sea?' He ordered us to go down on our bare knees and pray, for he said he was going to leave us in a very poor state. We went down, for we thought it was death to us all. The prisoner afterwards threw me overboard, and then called out, 'Father, calm the sea, and lay those men's arms to their sides!' After we got into the harbour, he said he saw the ark outside, and that there were neither man nor anchors on board. He said the devil was below the hatch, but had escaped. There was no drink on board, and I thought he was out of his mind.

By the SOLICITOR-GENERAL—I never saw him in that way before. That night he was not like the same man he was at other times. I saw him get some drink in Auchmithie once. It was ginger beer. (Laughter.) About three weeks before the occurrence, I saw the prisoner take some drink in his father's house, but he was none the worse for it.

David Cargill, fisherman, Auchmithie—The prisoner said to me the Monday before the murder that he had not got any sleep for the devil, who had been with him all night. He had seen him at three in the morning, and could not get out for him. The devil, he said, was a little man, I said it was surely imagination. He pointed west and said that was the road to heaven. He said Christ was at his back and resisted the devil. I thought these curious words. The prisoner was quite sober. He appeared to be out of his mind. The prisoner was looked upon as a sober man at Auchmithie. I remember seeing him, the Sunday before this, at an evening service in church. The fishermen's missionary was there. The prisoner moved his head from one side to another, and rubbed his hands, and appeared very strange during the service.

James Cargill, fisherman, Auchmithie—The day before the death, I saw the prisoner in an eating-house. He said some boys had been tormenting him, and he had gone to the police. He told me that he had that morning, when near the Bell Rock, made a bible out of a mackerel. I saw the way in which he conducted himself in church.

Mrs Mary Ann Spink, Auchmithie—I have known the prisoner for some eight or nine years. I have always considered him a kind, sober man. He has a wife and four children. I observed a change upon him from the time he had a fit. He was never the same man after that. The prisoner came to my shop one day of the week before the murder. He was very sulky, and I thought at that time he was out of his mind. His father came in, and he took off his hat and put it on his father's head, saying that was all the heirship he would ever get from him. He went about the shop crying 'Oh, dear; oh, dear!' I asked what was the matter with him, and he said the world had gone against him. I gave him some broth, and he asked some 'sneeshin' to put in among it. He drank up the soup like a dog.

(The prisoner, from the way he laughed, seemed to enjoy this statement.)

He came back in the afternoon, and when the van-driver came in he jumped on his back, and said he would make a donkey of him, and drive him down below. (Laughter.) When he rang the bell, he said it was a warning bell from heaven to tell the people what he had seen. When he appeared in a low melancholy state, I offered him some whisky, but he would not look at it.

By the SOLICITOR-GENERAL—It is about ten months since I first saw a change in the prisoner. He has spoken to me

several times on the subject of religion. He said he had seen a vision by night. It appeared to me that religion had really taken possession of his mind. I had no idea of what he meant when he spoke about the world going against him.

Alex. Cargill was recalled, and stated that on the way from a sale the prisoner had fallen down on the road in a fit. He was insensible for three minutes. He went home himself after he got better. I asked him the next day if he would go to sea, but he said he would not be able. He was never the same man after that fit; he had not the same countenance.

Alex. Beattie, fisherman, Auchmithie—Eight days before the death of the girl Swankie, the prisoner told me the Lord Jesus Christ had come to his bedside and had pardoned all his sins. He looked very strange when he spoke to me. On the 10th of September he met me in Ladybridge Street, and asked me for the loan of a spyglass, because he had seen Noah's ark that morning, and he wished to see it again. I got the glass, and told him I could see nothing but three ships. He said he could make out the ark pretty well. He told me also that the night before there were two devils in the boat, a big one and a little one, and he had been told he had to go on board the ark. He asked me to get a boat and go off to the ark. I said I would not go. He said he was bound to go.

By the SOLICITOR-GENERAL—This was about one or two o'clock in the afternoon. I went down Marketgate and down the pier with him. He was not in his right mind at the time. His eyes were awfu' red. When he came to my house, the prisoner began immediately to speak about religion.

This concluded the evidence, and

The SOLICITOR-GENERAL then addressed the jury, and said that there could be no doubt whatever that the violence which caused the death of the little girl, Ann Swankie, was inflicted by the prisoner at the bar. The question, and the only question which could be raised in the case was, whether, in the circumstances under which the violence was committed, the prisoner could be held guilty of murder? The question was whether or not he was to be looked upon as responsible for the act he had perpetrated. The answer to that question depended upon this, whether or not the prisoner at the time was in his right mind—was sane or insane; whether he was able to distinguish between right and wrong. He had listened to the evidence which had been adduced both on the part of the prosecution and defence; and having in view what he regarded as the law by which they behaved to be regulated, the conclusion to which he had arrived was this—that the defence of insanity which had been stated for the prisoner has been reasonably and substantially proved. Therefore it was not his duty to ask from them a verdict that the prisoner was guilty of murder, but one to the effect that the act charged was committed by him when he was in a state of insanity, and that he was not responsible for the act. The Solicitor-General then read a judgment of the present Lord Justice-General, in a case which had been decided in the High Court in February 1863, showing what should guide them in sustaining a plea of insanity. The Lord Justice-General, in the judgment quoted, said that the doctrine of criminal responsibility was exceedingly simple. If a person knew what he was doing he was responsible for what he did; if he did not know what he was doing, and could not appreciate the nature and quality of the act, then he was not responsible. Nor would it matter how insanity was brought about. That was the issue. They might perhaps permit him (the Solicitor-General) to say a single word as to the grounds on which he arrived at the conclusion to which he had referred. In the first place, he thought it was proved by the evidence of those who saw the prisoner at the time, and those who saw him after the time when this unfortunate act was committed, that when he did commit the act he was under mental delusion. In regard to the reality of the delusion, his opinion was confirmed, not merely upon the evidence of unskilled witnesses, so to speak, but upon the testimony of the three professional gentlemen who had been examined; and the united statements left no room for doubt that the prisoner did entertain these delusions, and that he was misled with regard to the thing he was doing in consequence of the delusions of which he was possessed. He was striking with a poker at the little girl; he was beating her brains out; but according to the view upon which he acted, as that was evidential by the different witnesses, and by none more strongly than by the medical men, he all the while believed it was not the girl he was striking, but the devil. These delusions were the means of destroying in the prisoner's mind the distinction between right and wrong; and therefore at the time he was labouring under them he was irresponsible, because he was insane.

It was impossible to say how long this state had been in process of incubation; but at the time this deed was done it was quite clear the prisoner was in that state which according to the best opinion which they had been able to form, rendered him irresponsible for his conduct; and he therefore ought to be acquitted upon the ground based for his defence. He had therefore to ask the jury to return a verdict finding that the prisoner was guilty, but finding that the act charged was performed by him at a time when by reason of insanity he was not responsible for the act which he performed.

Mr MANN then addressed the Court. He said he was exceedingly happy at the result arrived at by the Solicitor-General. He thought he could not have come to any other conclusion, after the very clear, conclusive, and satisfactory evidence which had been laid before them as to the prisoner's state of mind. No person in the Court could have listened to the evidence without being perfectly satisfied that, from whatever cause, religious or otherwise, at the time that poor unfortunate girl met with her death on the 10th of September the prisoner was not responsible, because he was—to use the language of one of the witnesses—utterly incapable of distinguishing between right and wrong. In these circumstances, the only verdict they could return, according to law, was to find that the prisoner committed the act mentioned in the libel, but that at the time he was insane, and therefore find him not guilty.

The LORD JUSTICE-CLERK said he was sure they must all be of opinion that the public prosecutor had done right in instituting that prosecution; and he thought they would all agree with him that he had done right in departing from the charge of murder after the conclusion of the evidence. The melancholy circumstance which had brought them together—the unfortunate death of that poor innocent child—required the fullest investigation, and the mental condition of the man by whose act it was committed required to be known. They had had the investigation conducted most satisfactorily, and the result at which the public prosecutor arrived was, that he could not ask a verdict finding the prisoner guilty of murder. If the jury were satisfied that the prisoner at the time of the commission of the crime was bereft of reason; that he was incapable of distinguishing between right and wrong, having his mind influenced by delusions which carried him to the perpetration of the act with which he was charged, then he was not responsible criminally, and was not liable to be tried, convicted, and executed. The mania under which that unfortunate man was labouring they would probably agree with Dr Rorie in thinking religious mania. It did not appear to him that any imputation rested against the panel as a person who had brought himself into that condition by excess in the use of spirituous liquors, or that the particular form of mental insanity under which he laboured was caused by the excessive use of intoxicating drinks. He unfortunately appeared to be labouring under religious mania, and from the evidence they had heard he thought there was full confirmation of the opinion of Dr Rorie when he said that that must have been indicated several days before the perpetration of the offence with which he had been charged. These indications were clearly brought out. He had had religious notions, he had said he killed the devil; he had seen the ark from the harbour; and there could therefore be no doubt that religious mania was the cause of the unfortunate condition in which that man was. It was the duty of the jury to return a verdict finding the prisoner not guilty of the charge of murder, accompanied by a special verdict finding that the panel was insane at the time he committed the homicidal act, and on account of that insanity they would declare that he was acquitted of the charge by them. The prisoner would then be placed under control subject to Her Majesty's pleasure, and placed under such circumstances as to effectually protect society from a repetition of such an alarming offence.

The jury found a verdict according to the instruction they had received, and the Court pronounced an order conformable to the verdict, by which the panel will be confined during Her Majesty's pleasure.

The prisoner having then been removed from the bar, the LORD JUSTICE-CLERK thanked the jury, and the Court rose, at half-past six o'clock, after a sitting of eight and a half hours' duration.

The prisoner Cargill behaved in an extraordinary manner during the trial. As stated above, when he entered the dock in the morning, he appeared to have some sense of the solemnity of the proceedings which were about to take place, but there was a certain vacancy in his look, almost, if not wholly, amounting to silliness, which was incompatible with any depth of feeling. Afterwards, his countenance assumed a more intelligent expression, and he

frequently looked about him, apparently taking in the unfamiliar details of the Court-room, and sometimes looking round upon the audience. At his own request, he was some three or four times supplied with a drink of water. Once or twice he appeared to weep, but the most remarkable circumstance about the prisoner's conduct was that, except on these occasions, he conducted himself with great levity throughout the day. He frequently laughed, and on the verdict being read he turned towards the audience and laughed heartily to himself. Sometimes this unnatural merriment appeared to be caused by what the witnesses had said, but generally it was without any apparent cause at all. The prisoner, indeed, seemed to give little heed to the evidence, and when the Solicitor-General rose to address the jury Cargill displayed no feeling whatever, any more than if he had no interest in what was going on. At his trial, the unhappy man was either insane or feigning insanity.

Mr Smith, the Governor of Edinburgh prison, has addressed the following letter to the Edinburgh papers:—

I observe in your report of the trial of William Cargill before the Court of Justice yesterday that some remarks had been made by the Solicitor-General about the prisoner having been brought handcuffed to Court. As the way in which he mentioned the matter was calculated to lead to the belief that the prisoner had been so sent before the Court by me, I think it right to state that such was not the case—that when he left the prison in charge of the police he was not handcuffed, and that I had no charge of, nor responsibility for him, until he was returned to the prison after trial. When sent for by the Solicitor-General, I attended as a matter of course, and when I asked it to be intimated to him that I was in attendance, he sent to inform me that I was not now required, having by that time, I believe, learned the true state of the case. If this had been intimated in Court, it would not have been necessary to trouble you with this note.