

THE ATROCIOUS MURDER OF A CHILD IN ARBROATH.

Our Arbroath correspondent sends the following particulars of the murder perpetrated in Arbroath on Thursday, as reported by telegraph in yesterday's paper:—

The victim was 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. 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, where, on Thursday afternoon, the frightful tragedy occurred. 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 time speaking to a fisherman named Thomas Cargill—no relation of the prisoner—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, in which there was nobody but himself at the time, or whether the child, seeing the door open, had wandered in of her own accord, is not 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 ——— Tod, 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; 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. 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 must just have 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 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. 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 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. The 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

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; 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 made no 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 any rate, 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.

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 was ironed, and placed in a cell along with a constable. We understand that during the night his behaviour was variable. Sometimes he was singing and whistling, and at other times was moody and dull. Yesterday forenoon he was visited in his cell by the Provost and Bailies Christison and Salmond, and a warrant for his committal to prison on a charge of murder was signed by Bailie Christison. Shortly afterwards, he was removed from the Police Office to the Railway Station, and he left for Dundee by the 11.10 train, in charge of Superintendent Milne and two other officers.

There does not appear to have been any motive for the perpetration of this horrible deed. 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. Last Monday evening, he got up and rung 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.

HIGH COURT OF JUSTICIARY.

THE ARBROATH MURDER CASE.

The High Court of Justiciary met yesterday—the Lord Justice-Clerk on the bench—when Wm. Cargill, fisherman, Arbroath, was placed at the bar charged with the crime of murder, in so far as on the 10th September, last, in or near the house or premises in Bridge Street of Arbroath, Forfar, then and now or lately occupied by Jean Reid or Vannet, widow, public-house keeper, the said Wm. Cargill did wickedly and feloniously attack and assault the now deceased Ann Cargill Swankie, daughter of and then residing with David Swankie, fisherman, residing in Union Street, East, Arbroath, 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 Wm. Cargill."

The prisoner on being brought up into the Court guarded by two policemen was handcuffed, on observing which

The SOLICITOR-GENERAL asked by whose authority the prisoner had been handcuffed.

Mr W. L. MAIR, counsel for the prisoner—He has been kept in a padded room, with handcuffs on, and two men watching him ever since his apprehension.

The SOLICITOR-GENERAL—I wish to know by whose authority that was done? Send for the governor of the jail, and take the prisoner down stairs to be examined.

The prisoner was then removed.

Mr MAIR—If it required two men to watch over him in a padded room in jail, even with the handcuffs on, surely they required handcuffs as a protection in Court. I have nothing to do with his being handcuffed; and so far as I am personally concerned, I have no objections to the handcuffs being taken off.

The SOLICITOR-GENERAL—There was no communication of this made to the representatives of the Crown, and I have never seen such a thing. There is no plea of insanity.

After a short interval, during which the prisoner was examined by medical men, he was brought up unmanacled at the order of the Solicitor-General.

On being asked to plead, Cargill said—I am guilty, but I was insane.

A formal plea to the effect that the prisoner was guilty, but that he committed the crime while in a state of insanity, and was not therefore responsible for his acts, was then recorded.

A jury having been empannelled, the case then went to trial, the Solicitor-General and Mr Lee conducting the prosecution; and Mr W. L. Mair and Mr J. McDougall Gibson acting as counsel for the prisoner.

John Todd, general dealer, Forfar, examined by the SOLICITOR-GENERAL, deponed—I reside in Arbroath, and know Bridge Street there. A widow named Jean Reid or Vannet keeps a public-house there. I was in Bridge Street between three and six o'clock on Thursday, 10th September. I saw a crowd near Mrs Vannet's in the street. I stopped my cart and went forward to see what was doing; I saw a man laying on the head of a child with a poker. The man was on the inside of the outer door leading to Mrs Vannet's private house. The little girl was lying between the inner and outer doors. The man had not a hold of the girl, but he held the door with his right and struck the girl with the poker in his left hand. The girl was dead at the time—making no sign of feeling of any sort. The man, when so striking, was blaspheming. He said he was killing his father's devil. He repeated this over and over again, and seemed to be excited, although I could not say there was anything unusual in his appearance. He continued to lay on the dead girl three or four minutes after I came forward. The passage was too narrow to allow any one to interfere. I heaved in a

little dog to distract his attention, but that failed. Two men and myself then ran in upon him. One of them, named Gibson, was struck by the poker on the hand; but ultimately Cargill was seized and thrown to the ground. I knew Cargill by sight, but not to speak to except when asking him about herring. (I identified Cargill.) I know that Cargill was employed in the herring fishing this season. I saw him two or three days before the murder down at the harbour. There was nothing unusual then about him that I observed. After the prisoner was thrown down he was carried to the police office by a number of men and myself. He allowed himself to be taken quite peaceably, and never spoke a word. When we got him to the police office he was handcuffed. Gibson asked Cargill if he knew what he had done, and he said he knew he had killed Spankie's bairn—his father's devil. He asked Gibson for a chew of tobacco, and told Gibson he would get it in his left pocket. He got the tobacco, and appeared then to be sensible enough, and to be quite composed. I saw the girl he was striking. Her head was very much injured—her brain was protruding from the skull.

Cross-examined by Mr MAIR—He continued to strike the child repeatedly after the child was dead. The prisoner was a little in a state of perspiration. He did not strike the dog thrown in. He kicked the legs of the child after it was dead.

David Gibson, fish-dealer, Arbroath, deponed—I have known the prisoner for eight or ten years. On Thursday the 10th September, I remember seeing a woman running down Bridge Street crying murder. She said also that William Cargill had killed the bairn. I ran to Mrs Vannet's door. Only one man, John Beattie, was there, and he was crying out. When I got to the door, I looked in and saw Cargill beating the child with a poker on the head and different parts of the body, and kicking it with his feet. I said, "Oh, you cruel monster, William." The prisoner used the poker with his left hand. The prisoner said nothing to me in reply to my remark. He before that cried out something, but I did not know what he said. When I went first to the door the little girl was dead. Other people came up afterwards. The prisoner continued to beat the child for about three-quarters of an hour before he was stopped. When attempts were made to stop him, he would use the poker. When we went in to him, I was struck by him on the hand. I gripped him by the throat, and he said, "Wattie, don't hurt me; I won't kick." He was taken to the police office and handcuffed there. I spoke to the prisoner in the police office. I asked him if he knew what he had done. He said he had killed Nellie Stuart's bairn, but that it was his father's devil. He had a bit paper in his hand which he said was his father's will. When the prisoner was in the police office he was very excited looking. I could not say whether there was drink upon him. So far as I could judge, he knew quite well what he was doing in the police office. I saw the prisoner about two and a-half hours before the murder, at the docks; but, so far as I could discover, there was nothing unusual about the man. I have seen him the worse of drink. I saw him so about twelve days before the murder. About three weeks before the murder, the prisoner, who was skipper of his boat, was the worse of drink, and when the boat was going out to sea that afternoon he struck at one of the crew. Others of the crew were the worse of drink, and the boat would have gone on the rocks, but a pilot boat went out and brought them in. The prisoner was raging with drink, and smashing about, and crying out he would do for them. I never saw him in the same state as that before. I saw the prisoner frequently between that and the day he was taken to the police office. I saw the prisoner on a Monday, on board his boat. There was nothing unusual in his appearance that day. The girl was very much injured—was dead, in fact, before I got up. Shown poker, which witness identified.

Cross-examined by Mr MAIR—The prisoner lives in Auchmittle, three miles from Arbroath. He went under the name of "Puir Will" in Auchmittle. Here the prisoner, who had been laughing quietly to himself for some time, burst out into a giggling laugh. Cargill

for some time, burst out into a giggling laugh. Cargill was a quiet peaceable man, and not given to drink. On Thursday, in coming into the harbour in his boat, he cried out that there was a boat outside with nobody in it. Nobody paid any attention to him, and his own folks said that he "wasna richt yet." On the Monday before that, he was said to have rung the town bell, and gone about the village half-naked. As far as I could judge, it was drink that excited him the day his boat was nearly on the rocks.

By the COURT—I cannot say whether he was under the influence of drink or not on the day of the murder. When I gripped him by the throat, he said, "Wattie, don't hurt me; I won't kick you." Wattie is his brother's name. There could be no mistake that the child was dead all the time I saw him striking her.

John Beattie, white-fisher, Johnshaven deponed to having been in Mrs Vannet's house on the 10th September, and having heard cries of murder. He said—White was with me at the time. Mrs Vannet came in and said, "That's an awful way o' doing that William Cargill is kicking up in the house." The cries of murder continued, and I ran out into the street. I saw Cargill standing in the private door to Mrs Vannet's house with a poker in his hand, but he was not striking the child. One of her legs was shaking at the time, but I heard no cry or moan. I could not say whether he (the prisoner) is the man. After waiting a little, I saw Cargill striking the girl several blows. About ten minutes, or a quarter of an hour after that, Gibson came up. There was a crowd of men and women at the door, but there was no attempt to stop the prisoner. I cried to the prisoner to go ben the house into the room at the door of which he was striking the girl. He went into the room, but nobody followed him. I then went and seized the girl by the arm. The door of the room was open. Before I got power to take the girl away, Cargill came out of the room, and, leaving the girl, I ran back, as he held the poker up. I ran into the street, and Cargill ran into the inside door with the little girl at his foot. He then commenced to strike the girl again, and Gibson came up. He was very excited, and foaming at the mouth. I could not say whether there was any drink on him.

Cross-examined by Mr MAIR—I did not think he was mad when he was striking the way he did. He was mad in one way. He was very raised like. I was frightened to go in on that account. All the people in the street were frightened.

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. He cried out something the whole time, but I could not understand what he said. He was striking about ten or fifteen minutes.

John Benson, potato-dealer, Arbroath, corroborated the evidence of previous witnesses. He thought Cargill was outrageous like.

Cross-examined by Mr GIBSON—I helped to carry his head and shoulders to the police office. I felt no smell of drink on him.

Mrs Helen Swankie, wife of David Swankie, fisherman, Union Street, Arbroath, deponed—I know Mrs Vannet's public-house in Arbroath. I was there with two of my daughters on the 10th September last. I was in at Mrs Vannet's for a drink of water for my children. We got the drink of water, and then came out. We met at the door Thomas Cargill, a fisherman. I am sure both my girls came out with me. I had one of them in my arms. I stood and spoke close beside the door to Thomas Cargill. About two or three minutes after, I heard Mrs Brodie making a loud cry, and saying, "Oh, dear, it's 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 his back to the door

right hand. Thomas Cargill kept me back from going into the room. The man with the poker saw me and I saw him quite well. When I was going in to lift up my little girl, he lifted the poker in his right hand and

said, "Come forward now, you — of —; I've done for her, and I'll do for you." The prisoner's oldest brother is married to a sister of mine, but I never had any acquaintance with him. Cargill wanted to strike the people who offered to come in, and the more he saw the people coming in the more he struck the child. When he said the words, he struck the child. My child was very sore smashed.

Cross-examined by Mr MAIR—My husband had no acquaintance with the prisoner, and we had never had any quarrel with him. I never heard that he had any ill-feeling to us. He could not. I don't think he ever saw the child before.

Jean Swankie, daughter of David Swankie, and sister to the murdered girl, corroborated her mother's evidence.

Mrs Vannet, publican, Bridge Street, Arbroath, deponed that she had a room in her house called the "Fisherman's Room." Three-quarters of an hour before the murder took place, she heard a knocking on the wall, and wild cries proceeding from the room. She believed these to be caused by Cargill, and she sent away for Cargill's wife, who came and went into the room. Witness had not seen the prisoner up to this time. Cargill's wife came out of the room and went for the doctor. While she was away for the doctor, Mrs Swankie came in with her daughters for a drink of water. Witness saw Mrs Swankie and the girls go out, and then she locked the shop-door. Afterwards, she heard cries of murder, but she remained in the shop. She did not supply drink to the prisoner, but to some of his crew. So far as she was aware, the prisoner got no drink that day. She had seen the prisoner the worse of drink about three weeks before the murder. Generally, he was a sober man. It never occurred to her that the prisoner was out of his mind; but she had heard the people saying that he was.

Cross-examined by Mr MAIR—I heard knocking and wild cries like a beast when Cargill was in the fisherman's room. I sent for his wife, for I was afraid he would come in to me, or do harm to himself; and these were my reasons for advising them to send for a doctor.

David Arratt, M.D., Arbroath, deponed—I made a post-mortem examination of the body of Ann Swankie on September 11, along with Dr Crichton, and made a report thereon. Witness then read the report, which stated that there was a deep wound on the middle of the forehead an inch long, and a slighter one on the right cheek. The head was crushed in, and many of the bones were driven in on the brain, and other parts of bone wanting, corresponding to those found about the room. They were of opinion that the deceased, Ann Swankie, died in consequence of injuries on the brain inflicted with a blunt instrument, and must have proved rapidly fatal.

Dr Crichton deponed to the report being a true report.

Angus M'Intosh, sergeant in Arbroath police force, deponed that the prisoner was brought to the police office in an excited state. He told Cargill that he had to detain him for killing his child, which was reported to him at first. The prisoner said, "No, it was not his child; it was Helen Stuart's child." The prisoner, at the suggestion of the people who brought him in, was handcuffed; but witness would have done it himself, he appeared so excited. 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. Witness could not say that the prisoner was under the influence of drink. If he had any drink, witness did not smell it. The prisoner that night was detained in a police-cell in charge of two officers, and next morning he was not excited.

Cross-examined by Mr MAIR—The prisoner said in the police office that he had killed her or his father's

the police office that he had killed her or his father's devil. He repeated this often. I thought he was like a man in *delirium tremens*.

[The prisoner laughed very often during the examination of the last witness.]

Alexander Joss, constable, Arbroath, deponed to seeing the prisoner in the police-cell. He was wet-like about the face with perspiration or water. He was excited, looked strange, and answered questions strange. Witness was one of the constables who watched the prisoner. During the night the children outside were crying out, and the prisoner said, "They told me that the child was dead, but I knew better; there it is crying yet." He sometimes said that it was a child, and sometimes it was a devil. It did appear to me that he always believed what he was saying. Witness indulged the prisoner in his humour. There was no indication of violence at night. Witness saw some paper in the prisoner's hand. The sergeant tried to get it from him, but he would not give it up. Witness afterwards coaxed it from him. It was a cheque for £19. He got the cheque from the prisoner on the plea that he was going to wrap it in a clean piece of paper. Witness gave the prisoner back a piece of paper folded like the cheque. The prisoner said that it was a gift from his Heavenly Father, and that as long as he had that gift from God he could do anything, for the gift enabled him to kill the devil; and if he had not got the victory over the devil, mankind would have been lost. He said he had gained a great victory by killing the devil. He had a strange expression. He looked like as if he was under a delusion. From the way in which prisoner said these things, witness thought that he really believed them. When he was being taken away on the next day to Dundee, he still held the paper in his hand. He said they were going in Noah's ark. On the night previous, he said that in coming into the harbour that day, he saw the ark, but that it was in the shape of a schooner, and that he saw the angels in it. He also said that the people told him it was not true, but he knew better. On going away to Dundee the prisoner said to his father, "Come away, father, there's room for us all."

Cross-examined by Mr MAIR—On the Thursday evening, the prisoner 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 also spoke something about a serpent which required to be killed. During the night he sang revival songs. Something about "Father, save me," and "Hallelujah." He sang them at the top of his voice. He had no smell of drink about him, and it never occurred to me that it was drink that was wrong with him. [The prisoner here commenced to whistle lowly a revival hymn-tune.] The prisoner told me next morning that he was going to join the Ark at Dundee; that it had left Arbroath harbour and gone to Dundee. During the night, the prisoner said that the night before he had heard the devil in his boat, and when he went to look for him he could not see him, but he thought he got a kick at him forward, and sent him through the bottom of the boat. The prisoner showed no desire to sleep.

By the COURT—During the whole time the prisoner was speaking, I thought that he sincerely believed what he was saying. It never occurred to me that he was acting or shamming at all.

John Milne, police superintendent, Arbroath, deponed that when he first saw the prisoner in the police office he complained of having been ill-used by those who brought him there. The prisoner was not excited then. Witness said to the prisoner that he suspected he had been drinking, and he said that he had had only two nips. Witness felt the smell of drink, and he thought that it was from the prisoner, although there were other persons in the room. After being some time in the room, the prisoner fixed his eyes, and said that he saw devils in the corner of the room. His whole bearing was defiant, as if he had gained a victory over something. Witness believed that the prisoner really believed he saw these things. Witness thought the

something, witness believed that the prisoner really believed he saw these things. Witness thought the prisoner was touched with *delirium tremens*. The prisoner said he had killed his father's devil. The prisoner did not seem to be under fear of the devils he saw. Witness, on the Friday, conveyed the prisoner to Dundee, and on the journey he was quite calm.

Cross-examined by Mr MAIR—The prisoner said to the doctors who visited him that they thought themselves very clever, but for all that he had killed the devil, and that there was another edition of the one he had killed to kill yet.

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.

Alexander Macqueen, governor of Dundee Prison, deponed to receiving the prisoner from Superintendent Milne. Cargill was apparently flushed about the face and excited. He looked as if he would try to frighten and intimidate him (the governor.) He has been in Dundee Prison till Thursday last. He was confined with another prisoner. The second night he was aroused between ten and eleven o'clock because the prisoner attempted to strangle his fellow-prisoner. Cargill admitted he had done something 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 daff. Cargill did not say anything to that—he was quite sullen. Cargill on the 30th October became violent and used threats to the chaplain, and "boomed" at him because of some remarks he had made in his sermon. I thought Cargill was not mad.

Cross-examined by Mr MAIR—On a visit that his father made to Cargill he spoke of the devil and the grace of God, and a crown of glory was also mentioned, but I did not hear all the remarks. He did not sleep well during the night, but occasionally through the day.

John Guthrie Smith, Sheriff-Substitute of Forfarshire and Dundee, deponed to the prisoner being brought before him for judicial examination. He said—“I noticed that the expression of Cargill's eye was of a restless and unusual character; but in the circumstances I thought it right to allow the examination to go on. The first answers he gave were rational enough, but as they proceeded they were not. When asked if he knew what he was taken up for, he declared it was for killing the devil. He said, ‘‘It was made up between God and the devil that I was to fight the devil. I killed the devil with a broom-besom and a poker. The devil whom I killed was about the size of a good big child. The devil was on my boat the night before, and tormented me while I was lying in the Lord's arms.’’ As there was no evidence to satisfy me (the Sheriff deponed) that the man was shamming, I was justified in having doubt as to his sanity, and accordingly stopped the examination. The conclusion to which I came was, considering the answers he gave, and the restless expression of his eyes, that it was a case for further inquiry. The prisoner answered the questions in a calm and collected manner. There was no change in the manner in which the prisoner gave his answers. On the next examination of the prisoner, he was much more subdued. On being questioned, the prisoner said: ‘‘I mind a little of being brought before the Sheriff before. I recollect a little of what I said on that occasion. I mind of saying something about a devil. I declare that I think I was wrong. ‘Do you remember of striking a girl?’ I recollect of striking a girl. I recollect a little ‘intult.’ I can only say that I would not have done it had I been in a right state of mind. I

not have done it had I been in a right state of mind. I do not recollect of seeing the girl before that day. I do not recollect of having an iron poker in my hand.’’

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.

Dr Arrot, Arbroath, deponed to having examined

the prisoner in a police-cell in Arbroath on the 10th September. He had altogether a wild excited appearance. 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. My opinion of the prisoner's state was never changed. I saw the prisoner next morning, and his condition was what I considered another stage of the disease of alcoholic excitement.

By the Court—When I saw the prisoner I think he was under delusions. I don't believe he feigned anything. I believe he did kill the child, believing he was killing a devil. When he killed the child I believe he did not know what he was doing. It is my opinion that the prisoner, while under these delusions, was utterly incapable of knowing right and wrong. The prisoner was labouring under delirium traceable to drink, and was under strong muscular activity.

Dr J. Smith, Crichton deponed that the prisoner seemed dazed with drink. He did not consider that he was labouring under *delirium tremens*—but it was delirium. He rambled about devils and serpents.

Cross-examined by Mr MAIR—The prisoner was not capable of judging right from wrong when I saw him. I believe that when he was murdering the child he believed that he was killing one of the devils. I do not believe he was feigning when he said so. I believe he was in earnest. I believe he was for the time bereft of reason.

Re-examined by the SOLICITOR-GENERAL—He said he had killed his father's devil, and regretted that he did not also kill the serpent he imagined he saw. I believe he did not consider that he was killing a child.

Dr Rorie, medical superintendent of Dundee Lunatic Asylum, deponed—The prisoner said that he had killed a child, but all the while thought that he was killing a devil. I thought that he was sane all the time. The story the prisoner told was this—that 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; that, 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 Yannel'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. Witness believed the story was a true account of how the prisoner felt and acted when he committed the deed. In conversation with the prisoner, the witness learned an important fact—viz., that he (the prisoner) had twice been 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 fits, the witness had no doubt they were of an epileptic character. The prisoner stated to him 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 was a week or ten days before the murder, and on that day he had only had 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 of the act he was committing.

By the Court—I did not consider that the prisoner was labouring under *delirium tremens*. I believe that for a week or ten days previous to the murder he was labouring under a religious mania.

EXCULPATORY EVIDENCE.

William Crab, blacksmith, Auchmittle, deponed that, on the Monday morning before the murder, he saw the prisoner ringing the church-bell through the village. When he saw him, he asked whether witness was going to the church. Witness replied that he was not. He considered the prisoner a sober steady man.

Mrs Brown, post-mistress, Auchmittle, deponed that she had known the prisoner all his life. He was looked upon as a Revivalist. He on one occasion came and asked for the keys of the church. She gave him the keys, and he went in, sang, and prayed. Some persons came into the church, and the prisoner asked them to bring their boats and money into the building. He said he saw the heavens open in the south-west. She did not consider the prisoner to be insane. He seemed quite sober. She had seen him the worse of drink, but not before the last fishing season.

Thomas Smith, fisherman, Auchmittle, deponed that he was close beside the prisoner in the church, and that he wished witness to sing a psalm.

James Cargill, fisherman, deponed—I am a brother of the prisoner. He can neither read nor write. I never saw my brother get any drink the week before the murder. I had seen him offered drink and refuse it. When out at sea, his brother frequently called out orders when there was no necessity for it. One night out at the fishing he went flying about the boat, crying out "Glory, glory to the Lamb," and he made all the crew come round the mast and join him. We did so because we were afraid of him. He threw Alexander Cargill into the water, but Alexander managed to get into the boat. He was in a state of high excitement, and was singing hymns. He said he saw Jesus walking on the sea. He let go the rope and let the nets drift, and took out his watch, and said we had only three or four minutes to live as an ark was coming down. He cried out "Father, still the sea." We were all weeping about his condition. When we got into Arbroath harbour he lifted the hatches and said the devil was in below them, but that he could not get hold of him.

Alexander Cargill, fisherman, corroborated the evidence of previous witness. When out at sea, the prisoner was "raised"-like. When the nets were cast, the prisoner said there were fifteen barrels of herring in one, and that we were to clear the boat for them. He was singing hymns, and we were forced to join him, as we were afraid of him. He came out from below the sail, and said, "Do you see Jesus walking on the sea?" He ordered us to go on our bare knees and pray, for he said he was going to leave us, and would leave us in a poor state. We went down on our knees, for we thought it was death to us all. After some other freaks, he got me forward and threw me into the sea. I got into the boat again. The prisoner was in a wild, excited state, and cried out, "Calm the sea, Father;" and "Lay these men's arms to their sides." He got quieter on the way to Arbroath, where we steered as soon as possible. Getting into the harbour, he said he saw an ark outside, with ne'er a man nor anchor aboard of her. He also said that he saw the devil below the hatches, but that he escaped. We had no drink at sea, and I thought he was out of his mind.

Cross-examined by the SOLICITOR-GENERAL—I saw the prisoner three weeks before that tasting drink.

David Cargill, fisherman, Auchmittle, deponed that on the Thursday of the murder the prisoner complained to him that he had had no sleep, as the devil had tormented him all night; and that the devil was a sma' mannie. He told me, pointing away south, that if I wanted the way to heaven, that was the road.

James Cargill, fisherman, Arbroath, deponed that the prisoner the day before the murder had told him that he had made a Bible out of a mackerel on the way home from the Bell Rock.

Mrs Mary Ann Spink, Auchmittle, deponed that she had known the prisoner for eight or nine years

she had known the prisoner for eight or nine years, and that he was a nice quiet person and fond of and kind to his wife and children. He had a fit at a sale, and was never the same man after that. On the Wednesday week before the murder he was in our shop, and witness thought, and said so to her brother, that he was out of his mind. He often came into the shop wringing his hands, but saying nothing. He jumped on our van-driver's back on one occasion and said he would make a donkey of him and drive him down below. He got up at six o'clock on Monday morning and rung the church-bell, and told the people that that was the warning bell from heaven to tell the people what he had seen.

Cross-examined by the SOLICITOR-GENERAL—I observed that change on the prisoner ten months ago. He told me after religious matters had taken possession of his mind that he had seen the devil on going to the well for water.

Alexander Cargill, recalled, deponed to having been at a sale some months ago with the prisoner, when he fell down in a fit and was insensible for some minutes. The prisoner was not the same man after that.

Alexander Beattie, fisherman, deponed that the prisoner had told him when at a herring fishing that the Lord Jesus Christ had come to his bedside, and had opened heaven to him, and pardoned his sins. On the day of the murder witness met the prisoner, who asked him to get a spy-glass to see the ark, which he said he had seen out at sea. The prisoner looked through the glass, and said he saw the ark pretty well. He told witness that he had seen two devils in his boat that night before, and they told him to go out to the ark. He said he was bound to go out to the ark; and asked witness to go too.

This finished 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 only question which could be raised in the case was whether, in the circumstances in which the violence was committed, the prisoner could be held guilty of murder—to put it in another form, whether the prisoner was to be looked upon as responsible for the act which he performed? and the answer to the question depended on whether or not the prisoner at the time was in his right mind. Was he sane or insane? Did he know what he was doing? He (the Solicitor-General) had listened to the evidence which had been adduced; both on the part of the prosecution and the defence, and having in view what he regarded as the law of the case, the conclusion at which he had arrived was that the defence of insanity of the prisoner at the bar at the time the act was committed had been reasonably substantiated. Therefore, it was now his duty to ask from the jury to declare 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. MAIR, for the defence, said he was exceedingly happy at the result at which the Solicitor-General had arrived. He thought he could have come to no other conclusion after the very clear, conclusive, and satisfactory evidence which had been laid before them as to the unfortunate prisoner's state of mind. No one, he thought, could have listened to the evidence without being perfectly satisfied that from whatever cause—whether from religion or otherwise—at the time that the unfortunate child met with her death, on the 10th September, the prisoner was not a responsible agent. In such circumstances, the only verdict which they could return according to law was that indicated by the Solicitor-General.

The LORD JUSTICE-CLERK said he was sure that the jury would be of opinion that the public prosecutor had done what was right in instituting this prosecution; and that he had done right in departing from the charge of murder after the conclusion of the evidence. The unfortunate death of the poor innocent child required a full investigation of the circumstances and of the mental

unfortunate death of the poor innocent child required a full investigation of the circumstances and of the mental condition of the man by whose act she unhappily perished, and the investigation had been conducted with satisfactory results. If the jury were convinced that the man at the time when this offence was committed was bereft of reason, and incapable of distinguishing between right and wrong—having his mind influenced by delusions which carried him to the perpetration of the act—then he was not a responsible criminal to be tried, convicted, and executed. In this case he thought they would agree with Mr Rorie that the form of mania under which the unfortunate man laboured was that of religion. It did not appear to him that any imputation could be thrown against the panel as a person who

brought himself into that position by an excessive indulgence in spirituous liquors. 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 the subjects against a repetition of so alarming an offence.

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

The prisoner, who displayed the utmost levity throughout the whole proceedings, turned towards the audience when the verdict was being read, and laughed heartily to himself.