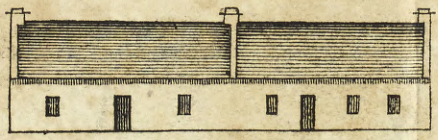
GROUND PLAN OF WHINNY PARK.

House. Shop.

W. W. Christie, Sc.



Front Elevation.

EXPLANATION OF THE FIGURES.

1. The Dwelling House—Kitchen: The room to the right is Mr Millie's bed-room: that to the left is a sitting room; to which the body was brought to be washed after the discovery.
2. Work-shop—Entrance way.
3. The loom on which Millie is supposed to have been sitting when murdered.
4. Unoccupied looms.
5. The pit dug in the work-shop, supposed to have been intended for a grave; 6 feet by 3 feet: 20 inches deep.
6. Spot where a hammer was found.
7. The spot where Millie's snuff-box was found.
8. The warping-mill, where a hammer was found.
9. Where Millie's hat was found.
10. The temporary grave—place where the body was found.
11. The gate or entrance to Millie's garden.
12. The dog-kennel—property of the Earl of Leven: the dotted lines from this shew the road.
13. The entrance gate to Melville grounds: The line between 11 and 13 is Melville Park wall, about 9 feet high.
14. The public road between the villages of Monimail and Collessie.

L. is a heap of lime, some of which had been strewed on the floor below the loom, where there were marks of blood.


W. W. Clark, Sc.
Front Elevation.
Shop.
House.

ion.

ft is a sitting room

20 inches deep.

about 9 feet high.

were marks of blood.

he cut presents an end view
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en a little in the fore-ground
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apple trees, which the cut
woods.

VIEW OF WHINNY PARK FROM THE WEST.

The cut presents an end view of the house from the west: the front of the work-shop, where the murder was committed, pears in perspective, somewhat lighter shaded than the front of the dwelling, to which it is joined obliquely. The well seen a little in the fore-ground, and immediately adjoining is a darkish spot designating the grave. The high bank, by ping from which the grave was discovered, is represented close above. The garden ground near the well is studded h apple trees, which the cut presents exactly as they stand. The wall in front is the boundary wall of Melville park d woods.

WHINNY PARK MURDER.

REPORT OF THE TRIAL

OF

HENDERSON;

WITH HIS

CONFESSION IN JAIL;

A NOTICE OF HIS FORMER LIFE;

AND

A SHORT MEMOIR OF MR MILLIE,

&c.

With a View of Whinny Park, and a Ground Plan of the Premises.

SECOND EDITION.

CUPAR.

PRINTED AND PUBLISHED AT THE FIFE HERALD OFFICE;
AND SOLD BY THE BOOKSELLERS IN FIFE,
PERTH, DUNDEE, & EDINBURGH.

1830.

MR MILLIE.

Mr James Millie, whose fate has invested his name with such a melancholy interest, was born about the year 1783. His mother's name was Black; and his relations on both sides were among the most respectable people of the neighbourhood, both in respect to their character and circumstances. They were dissenters from the Church of Scotland; and retained much of that superior strictness of life, and attention to the observances of religion, which for a long time continued to distinguish the Seceders.

The property of Whinny Park was acquired by Mr Millie's grandfather, as a feu from the Earl of Leven and Melville, about the beginning of last century; it was then a spot seemingly of little value, consisting chiefly of rocky wild ground covered with furze (whence its name of Whinny Park), and so steep and broken in most parts, that in those days it formed a sufficient obstacle to the course of the highway, which was accordingly led round it in a kind of semicircle. It retained this character a good deal, even after the first occupant had built his tenement on the spot; and some of the old people recollect Mr Millie's father telling of the labour and expence which it had cost him to bring it into its present high state of cultivation. This old man followed the same profession as Millie himself (a damask weaver), and was well employed by the farmers and other wealthy people in the neighbourhood. It was his delight, in times of leisure from other kinds of industry, to bring his little possession into good order, to remove the rocks, to use their stones as fence-walls, and to eradicate the furze; he had also a contrivance, in dry seasons, for raising the water of a little rivulet which intersected one corner of his ground, to irrigate the higher and rocky parts: so that it gave him no small amusement, in the latter part of his life, to hear strangers ask why a place so fertile was called *Whinny* Park. It was to Mr Millie

himself, however, that the peculiar neatness and ornamental appearance of the place was owing. He surrounded it on the north by a wall and hedge, with a beautiful semicircle of laburnums, which both ornament and shelter the enclosure: on the south it happens to be bounded by a part of the fine belt of planting which surrounds Melville Park. It contains somewhat less than an acre, and, from the number of fruit trees, has much the appearance of an orchard. In summer when the laburnums are in flower, and the apple and pear trees covered with blossom, there is not a sweeter spot in existence. The dwelling-house and work-shop stand together, fronting the south, and are neat substantial buildings. At the western corner is a small bleaching green, with the stream we have mentioned running through it on one side, and a small moss-covered well on the other: it was in the pathway leading to this well that the corpse was laid by the murderer; and the grave is within a few paces of the brink of the well. Millie had a particular pride in the neat and tidy appearance of the place, and had lately rebuilt both the dwelling-house and work-shop. His attachment to the place was enthusiastic, and almost superstitious: after selling to Lord Leven a spot from one of the corners, for the purpose of making an entrance gate to Melville Park, (the ground sold might almost have been covered with a large table-cloth,) he regretted the transaction, and wished it recalled for his whole life.

Mr Millie, we have said, was born about 1783: one of his schoolfellows, a gentleman of the medical profession, and whose fate it was to be present at the disinterment of his friend's corpse, has mentioned to us some traits of his early life, which shew that he had then the same sensitiveness of feeling, and the same retired manners, which continued to accompany him through life. He went through the usual education of a country school, and had at one time begun to acquire a knowledge of French; but seems to have neglected it in after life. His first venture into the world was about the age of 17; at which time he went to Pathhead to acquire an experience in some kinds of weaving which he had not

an opportunity of seeing with his father. It happened that the house at which he went to lodge had occupants of a very different kind from those to whom he had been accustomed; and his description of the fright with which, on the first night of his residence, he beheld a scene of scolding, uproar, and quarrel between his landlord and landlady, used to amuse the quiet inmates of Whinny Park for years after.

Before his departure his mother and sisters used to flout and jeer him a little on account of his quiet habits, saying that he would "*perish the pack*"—lose what his father had gained—want of care however was no part of Mr Millie's character; and he returned with sufficient in his little pocket-book to maintain his character for industry, and stop all sneers on that score for the future. He went afterwards to Dunfermline, in order to acquire an acquaintance with the improved methods of damask weaving: he resided there for some months; but seems to have kept up no acquaintanceship with any of the young people whom he had met: the manners indeed of young persons engaged in the manufactures in great towns were altogether abhorrent to the education he had received, and from his own disposition; and his aversion to them is not to be wondered at.

After this Mr Millie resided chiefly at home, assisting his father in their business. His chief amusement here, was in acquiring a knowledge of music: and on the violin especially his performances were really respectable. He had musical acquaintances through the whole country; and with any of these he would sit in enthusiasm whole days interchanging musical lore of every kind. Being much known and generally esteemed in the neighbourhood, he was often asked to perform on little occasions of festivity; but this as a professional matter he uniformly refused with some shew of displeasure: to parties who visited him in his own house, his violin and his hospitality were on the other hand equally and cordially ready. Many acquaintances of his who, having long left the neighbourhood, yet paid it occasional visits, thought no treat so high as a visit to Mr Millie on any of these occasions: and numbers on reading this at a distance

will feel that one chief pleasure in their visits to the place of their nativity is cut off. A letter addressed to Mr Millie, and written by a young man settled in England, who was a frequent visitor at Whinny Park in this way, was received a few days after the discovery of the murder, and before the writer had learned that shocking event. "I was extremely sorry," he says, "when at home, at being prevented seeing you a second time by an illness which deprived me of much projected pleasure—particularly at Whinny Park. I have spent many delightful evenings there, that I never can forget. If ever I enjoyed real happiness, it was when holding my father's plough during the day, and visiting Whinny Park in the evening, and listening to your music, or dancing with ——; but these days are past; and I am far from you all."

Besides his musical talents, Mr Millie had a strong turn for mechanical contrivances; which he displayed particularly in the ingenuity with which he supplied, from his own resources in a remote situation, all the improvements and complexities which make it necessary generally to carry on damask weaving in large towns; and which make its operatives, more than those of any other business, dependent on each other for mutual assistance. He had also acquired a knowledge of clock and watch machinery; and used to amuse himself in cleaning and repairing those of his acquaintances. His chief pleasure, however, excepting music, lay in his garden, and in the management of his flowers, fruit trees, &c.; and in this, as it afforded that kind of quiet satisfaction which suited his disposition, he spent great part of his leisure.

Mr Millie's parents lived with him for many years after they were both incapable of exertion for themselves: their industry and decent habits had formed similar dispositions in their children; and they reaped the fruits of their conduct in the comfort which they shared in their old age from the attention of those whom they had thus reared. A monument which he erected to their memory in Monimail church-yard, will in all likelihood bear the record of his own melancholy fate; and will tell for many days, at once the filial piety of the victim, and the ingratitude of the wretched assassin.

The following is the inscription now engraven on the stone; another will be inscribed by his friends for Mr Millie himself:

1826.
ERECTED
BY
JAMES MILLIE, FEUAR, WHINNY PARK,
In Memory of his Parents,
ALEXANDER MILLIE, AGED 80,
AND
JANE BLACK,
Who died the 8th May, 1823, aged 77.

After the death of his parents Mr Millie continued to live with his sister Catherine: and carried on his business chiefly with the assistance of servants; his ingenuity and the returns of capital laid out on his looms, &c. placing him beyond the necessity of actual labour except from choice. His business was pretty extensive: as a damask weaver he had no rival in the neighbourhood; and was employed accordingly both by the farmers and gentry for a considerable distance round. There are very few respectable families in the surrounding parishes who do not possess specimens of his workmanship; for though articles of equal quality could perhaps have been easily purchased, still many were partial to the idea of home-manufactured damask; either wishing to have it made of their own yarn, or choosing to have some pattern drawn by themselves or selected by a friend—in copying which Mr Millie displayed great ingenuity. In this way he had amassed considerable property: and the plunder (in goods particularly) seized by the murderer and his accomplices, must have amounted to a very considerable sum. In this easy manner, he spent several years: and though frequently advised by his friends to marry, the same retired disposition which led him to secluded habits in other respects, seemed to influence him in this matter also. A certain jealous independence was besides impressed on his character, which influenced his conduct on many occasions. Whatever might be his views, he continued to live single; and made his solitary life the theme of many good humoured jokes to his friends of both sexes who visited him at Whinny Park.

His jocular offers of that neat little possession, and its *batchelor laird*, to the lasses of the neighbourhood, were a standing source of good humour at all the parties where he was present: but he continued to live with his sister till she left him and was married.

During these years he went several times on excursions to some distance, on some occasions for business, and on others merely, as he said, to see the country. At one time he went with his sister to Perth, and from thence to view the scenery to the westward: and on another occasion, he went with an acquaintance to Dunkeld, and from thence to Loch Tay, Logierait, &c. His admiration of Dunkeld, the pleasure grounds in the neighbourhood, and the falls of the river Braan, at the Hall of Ossian was unlimited: and he was equally amused by the strange medley of names presented in the book where visitors are requested to write their signatures before entering the grounds: here were Counts from Italy, and manufacturers from Glasgow; Princes, Dukes, and Peers, mixed with common folk like himself; and names celebrated ovor the whole world, standing beside others which no body had ever heard of. The Highland scenery had but little attraction for him: and to a man of plain understanding the view of bare mountains with a scattered patch of vegetation here and there among the brown heather, cannot be very delightful. The want of comfort among the inhabitants: the poorness of their turf cottages; and the leanness of their miserable fields, utterly wearied him of the Highlands; and whatever may be the professions of tourists, we suspect that others besides Mr Millie have repented of seeking for entertainment among scenery so barren of all the associations of humanity.

We have said that Mr Millie generally employed one or two servants or journeymen in carrying on his business. It was not always easy to get men who were both good workmen and of steady characters; because such persons are generally valued by their employers in Dunfermline (where only the damask manufacture is carried on), and do not chose to take employment in the country. On this account Mr Millie had often occasion to

change his workmen, either from dissipated habits, inattention to business, or some other disqualification. He was, however, a kind and steady master; and one man who remained for a long time in his employment bears ample testimony to his good qualities. This person, on hearing of Mr Millie's death, writes as follows to a common friend :—" I felt extremely sorry for the fate of my old master, whom, with all his eccentricities, I cannot but respect; to be hurried out of existence by a vagabond whom he had fed and clothed, and to whom he acted in every respect as a parent, is terrible : the seven years and upwards that I wrought with James I must still look back to as the happiest years of my existence."

We shall conclude this sketch of Mr Millie's character by an extract from another letter by a young man once in his employ, but now a shool-master in a village at some distance : he had heard of the melancholy fate of his old friend, and writes thus to Mrs Smith (Mr Millie's sister)—" I do not think I could have felt more for a relation than I did for James Millie : and the remembrance of a man I so sincerely respected will be cherished while I live. I need no token to keep him in view ; yet I would like very much to have some relic belonging to him : if there be any trifle you could send me of his, you would indulge my weakness, and do me the highest pleasure. I forbear making any observation on the terrible transaction which has deprived you of a brother, and me of a much respected friend; as I could not do so without agitating my own feelings ; and recalling to your mind recollections which must have been already too poignant."

Such was the person who has fallen under the blow of an assassin : we have not drawn too favourable a character ; but even if we had, we would plead for excuse, that the deeper the interest excited in behalf of the victim, so much the greater will be the horror against an action so very contrary to the laws of God and all the institutions of man.

HENDERSON.

"Look on this picture, and on this!"

We shall not stop to make any moral reflections on the difference of the two characters which we delineate; these may safely be left to the reader himself. Suffice it to say, that Henderson is a native of Dunfermline: his parents are decent respectable people, and possess some little property there. His father is esteemed as an industrious man in his own business; and was remarkable for his ingenuity in several optical contrivances, the grinding of lenses, &c., which hardly seemed to lie within the reach of persons in his sphere. There are other children in the family, all of whom are well behaved and respected.

John, who has inflicted on them so much distress, is now about 22 years of age; he had tender eyes, and a somewhat defective sight, from his childhood, and, partly perhaps on that account, did not, so early as the others of his family, acquire those habits of industry which are the most effectual security against vice. The following extract of a letter from a gentleman who knew his parents, will give the best idea of his early character:—"He made pretty good progress in reading and writing; but he could never be got to pay the least attention to arithmetic. His parents have, for a considerable time past, considered him defective in judgment; and they expressed to me their conviction, that were the thousandth part of his conduct towards them known, he would not be viewed as of a *sane* mind. This they did not wish me to state; for they at the same time declared that it was not to the extent that would free him from responsibility. I have learnt also that this was the opinion of a very intelligent old woman whom I well knew, who is lately dead, an aunt of Henderson's, who used to say, 'John is surely not altogether solid; but it may be some time yet before his parents discover it.'"

Whatever truth there may be in this idea, Henderson certainly displayed an aversion to industry from a very early period, " and he never," said a young man of his own rank in life, " tried to associate with any one who was above himself." He sought rather the company of idlers, and those loose characters with whom the lower ranks in a manufacturing town abound so much. Some females of the neighbouring spinning mills were also his frequent companions: and their allurements, it is believed, induced him first to begin that course of depredation which has now terminated so dreadfully. He was easily imposed on by women; and these used to amuse themselves at his expence, or make game of his simplicity: in other affairs he seemed not a little shrewd and intelligent.

The accounts we have received of his career of dishonesty, for the purpose of gratifying these companions of his idleness, (for his money was chiefly spent with them,) display a methodical coolness and a disregard of detection altogether surprising. At one time he went to a farm called Lythance, not far from Dunfermline, pretending to be a *customary weaver,* (a weaver not for sale, but for private customers,) and got a quantity of yarn from the mistress for a web, of which she described to him the pattern, and which he promised to finish at a cheaper rate than usual. He went with it immediately to an innkeper in Saline, and sold it for 18s. Proceeding directly from thence to some country houses hard by, he sat down pretending to rest him; and seeing two cheeses, asksd the woman of the house what price she would take for them. She answered, " Five shillings." " Well," said Henderson, " I have only eighteen pence, (he had in his pocket 18s., for which he had sold the yarn,) but I will give you *that* just now, and will call tomorrow and pay the rest; my name is John Henderson, and I will be found at " such a house." The woman gave him the cheeses accordingly; as soon as he got to Dunfermline he sold them also. After some time, the woman from whom he had the yarn began to lose patience, and came to town to make some enquiries: she discovered Henderson's house; and his brother, who

suspected but too truly how matters stood, asked him what he had done with the yarn. "Oh! bless me, I forgot," said he; "I grew wearied carrying it, and left it at the Red craig's Toll." They asked him if he would go there and recover it. "To be sure"—he had no objections, and set out with them directly. When they were passing through a field near the place he had mentioned, he stopped short on a sudden, and said, "To tell the truth, I sold the yarn for 18s. at Saline." His brother, shocked at this disclosure, asked why he had committed such an action? but he walked off deliberately without saying a word.

It would be idle to repeat here all the anecdotes that have come to light concerning him in Dunfermline, since the late shocking occurrence. They would form only a list of robberies and cheatings, in which our readers could take no interest; and they were at the time concealed by his friends, who often chose to pay the damages, rather than see him endure the mortification of exposure. His character, however, has now formed for some time the chief topic of conversation among the young men of his own rank in that place, who feel shocked and disgraced at the discoveries that daily come to light concerning him.

At one time he was apprehended for retaining and selling some yarn belonging to Mr Kinness of Dunfermline: he was in this case sentenced to three months' imprisonment.

Shortly after this occurrence, his turn for watching the burying-ground, in the fear of resurrection men (a duty performed in rotation by the parishioners), came round: his companion was a lad of the name of Huggin, of a very different character from himself. Their conversation on this occasion is sufficiently strange, and may throw some light on Henderson's character. They were walking at midnight round the old church, and looking on the ruins which gave that place an appearance so peculiarly dreary at such an hour: the dilapidated towers and arches of a Gothic Abbey are venerable and impressive during the day, but to those who are sent there to watch their dead friends from violation during

the night, their appearance cannot be otherwise than melancholy: those at Dunfermline are besides frequented by numerous owls, which continue during the whole night hooting dismally, and flitting from place to place on the shattered walls. The two watchers were speaking together of the solitariness of the place: "It is eerie enough," said Henderson, "but the loneliness of a prison is far worse: *there* one has no company, but we are two together *here*." "Yes," said his companion, "you could not have been very comfortable for these three months, I daresay." "It might have been worse, tho'," said Henderson. "Aye? how so?" "Why the lawyers cheated themselves; for they had it in their power to give me four months instead of three." His companion, in spite of the dreariness of their walk, could not help laughing at this odd kind of self-gratulation; and asked him how he came to know his rights so precisely. "O, I have read Erskine's Institutes of Scots Law," said he; "it is a very useful book." This conversation among the ruins of Dunfermline, if not romantic, may claim at least the merit of being grotesque.

Another circumstance is told of him which may illustrate his charaeter. He had stolen or made away with some yarn in Dunfermline; and there was a hue and cry to have him apprehended. Whether from absolute apathy, from stupidity, or from a deeper cunning than he usually got credit for, he took no pains to hide himself, but went through the public street (where no one thought of looking for him at such a time), took a place in the coach; and rode off on the top, in the face of every body —while the officers of justice were searching all the holes and corners of the town to discover him.

But it is unncessary to repeat all that is told of him: and we cannot do better than make another extract from the letter we have already quoted.

"His parents have for several years past been kept miserable by the criminal and wicked conduct of their son, regarding whom they more than once expressed a wish that they had been able to have procured his confinement in a mad-house. For two or three years past he has rendered himself infamous in this neighbourhood

for almost every kind of criminal conduct. He associated with the very dregs of society, and whether well or ill-founded, I cannot refrain from stating that his poor parents reflect greatly upon a certain public-house here for encouraging him to harbour about it with the worst of company. His parents never saw him the worse of drink; and they never discovered in him any thing of a sanguinary disposition; but rather several traits of an opposite character. And in connexion with this they mentioned, with astonishment, his behaviour when here, immediately after the murder of Mr Millie. He talked of his master apparently with the greatest coolness, expressed the happiness he felt at being in his employ, and spoke very highly of bis general character. His poor mother, when mentioning this to me, seemed utterly lost in amazement at the hardihood and composure he displayed. I might mention to you a number of circumstances in the history of this unhappy man, learnt from various quarters, all shewing, that though young in years he is an adept in crime, but I forbear. His parents are deeply afflicted, nor will they be surprised though the crime with which he is charged should be proven against him. He has now for a long time spurned at parental authority, and shewn himself utterly regardless of character."

Another letter (received from Kirkaldy), shews that his depredations were not confined to his native place.

"Henderson," it is said "lodged about ten days in the house of a Thomas Wright, vintner, here, in January last. He professed to be a seller of table-cloths, towellings, &c., he had no stock of these articles, so far as his host knew, but had been seen wrapping up parcels, as he signified, for carriers; he got one of these parcels addressed in the shop of George Barnard, bookseller, and at three different times stole volumes of books from Barnard's shop, having gone there to buy wrapping paper and twine. Barnard detected him the third time, and went in search of him forthwith; he found him about to mount a saddle horse at Cunningham's tavern door, got him apprehended, and lodged in jail for a fortnight. (It is said that, when released, he carried off the key of the

jail.) He had left one volume of these books in a public house here, and some weeks after Barnard received another by the Dunfermline carrier. These were two volumes of Josephus: he had picked one of them out of the shelves while the bookseller left him to go into the back-shop; and had come back for the other when only a boy was in the shop. His lodgings were directly opposite Barnard's shop. He was also detected having stolen a cheese from a cart; and was known to have sold some tea at an under value. He went to the house of a small manufacturer in Path-head while the owner was absent, and told his wife that her husband had ordered him to get a certain quantity of cloth—naming a kind the manufacturer made: he got it, and sold it in Links, and was again lodged in jail on this charge; but in both cases it was said there was a deficiency of proof to commit him for further trial. He stole also a quantity of money from the people in whose house he lodged. I believe no one came forward to criminate him when under examination before the magistrates the first time but Barnard: the Path-head manufacturer was the next case. The night after his first visit to the bookseller's shop, he had been at Dunfermline in a gig hired from Low the innkeeper."

One tale is circulated which has obtained so much publicity that we shall hardly be pardoned for omitting it, however we may disapprove of the superstitious ideas on which its interest depends. It is said that on the night Henderson was born his father (by no means a weak or superstitious man) had a dream, in which he fancied that a gallows was erected opposite his own door; and that an immense crowd was assembled to witness an execution. The things seen in this strange vision made an impression of horror on the good man's mind, for which he could not account; and which he in vain endeavoured to dissipate by reflecting that there was no reason for them. The idea that the dream was in some way connected with the fate of his child, kept possession of his mind in a manner not to be explained: and though fainter during the young man's years of childhood, when nothing distinguished him from his school-

fellows and playmates, it recurred with increased force when the lad grew up to years, and exhibited dispositions of the kind we have described. On every new occasion of depredation his father exclaimed, in the bitterness of his heart, that now surely his dream was to be fulfilled. It is even possible that, as in many other cases, this superstitious dread of the fulfilment of a vain prophecy may have tended to produce the event dreaded.—His friends, in terror least his fate should realize their fears, endeavoured always to make up the losses he occasioned, and to keep him from public notice: his career was therefore conducted with impunity; whereas an earlier detection might have turned him into another course, and have prevented the shame to which he is now exposed.

We shall not add any thing to these notices; but must proceed to relate matters of a deeper and even more painful interest.

MURDER OF MR MILLIE.

WHINNY PARK, from its secluded situation, presented too many facilities for the perpetration and concealment of the deed by which it will be now remembered. Mr Millie's sister had, as we have already mentioned, left him some time before he took Henderson into his service: this man and Mr Millie were therefore residing alone in the tenement. The nearest house, besides being at some distance, is separated by a high wall from Whinny Park; and is tenanted by Lord Leven's gamekeeper who is seldom within doors; and by his sister, a young woman not likely to make any inquiry into the affairs of a house where there were no female inmates. The villages of Collessie and Monimail are, the former about half, and the latter a quarter of a mile distant.

The murder is supposed to have been committed about 10 o'clock on Saturday morning, the 26th June. The night before, Henderson had been in Auchtermuchty, and had been "drinking and driving o'er" as the country people express behaviour like his, with some associates he had found there. He spent on that day a great deal more money than he could have honestly gained as wages; ordered it is said a suit of clothes; and shewed besides some household keys evidently not his own. *It is therefore conjectured* with much reason that he had begun his course of depredation even before the murder; *and that* he was instigated to commit that crime by the hopes of securing the effects he had seen in Mr Millie's repositories.* However this may be, Mr Millie was seen on Saturday morning about 9 o'clock by a little girl who used to bring milk from a cottage at some distance: and after that time he was never again met by any person. About eleven o'clock Henderson passed through the village of Monimail; in his way he saw Mrs Balfour (wife of the blacksmith there) and told her that his master was going on Monday to Edinburgh after some business; and that he himself was to have leave at the same time to go to visit his friends in Dunfermline; he went

* It will be seen that this differs from the account given by Henderson himself in his confession.

immediately after to a shop in Letham, and purchased linen to make a *shirt* or *neck-shirt*, which he wished to have hurriedly prepared as for a journey. He had returned afterwards to Whinny Park; and about three in the afternoon he came back to Letham, where he got some tea made ready for him by Mrs Wallace of the Crown Inn: Mrs Wallace and her husband remarked that he was exceeding fluttered and disturbed in his manner; but as he attributed this appearance (of which he seemed conscious himself) to his having been intoxicated over night, it was allowed to pass without much remark. He had no associates in Letham upon whom he might call; for he was altogether disliked and repelled by the young people of the neighhourhood, and only found associates among the dregs of society in the neighbouring towns.

On Monday it is supposed that he had set off for Dunfermline in company with a person from Auchtermuchty. They travelled in a gig, and altogether assumed an appearance quite inconsistent with the situation of either. On their arrival at Dunfermline, Henderson did not go to his father's; but lived chiefly at the house where he was afterwards apprehended. The keeper of this place, (called the Old Inn,) whatever may be his other claims to respectability, has none in this matter: Henderson was here allowed every indulgence; and the females who had been his first inducement to crime, were entertained by him with all joviality. Two of them, in their excess of merriment, were over-heard with him one night, in a room, bargaining jocularly for some article of dress, which they requested might be good, and of a particularly bright pattern: if he purchased it, the money must have been stained with the blood of his master. To one of these he gave Mr Millie's tortoise shell snuff-box.* He continued here for about a week; and jaunted to several places in the neighbourhood. He then returned to Whinny Park: and seemed still to be in excellent spirits: some people inquired when he expected his master to return? It

* This box was neatly mounted in silver, and had the following inscription:—

To James Millie—The gift of a Friend.
When this you see,
Remember me,
Tho' many miles we distant be.

was not his business to know, he answered, but there was little fear of his running away,—or some pert words of that kind. In the meantime he entertained several of his associates at Whinny Park; and while he stayed, there was seldom a day that one or other of the loose characters whom he preferred, were not about the place. The neighbours who knew Millie's quiet habits, were shocked at seeing females gadding about in his garden, or looking out at his widows, whom that person would have shunned as he would a pestilence. There was at that time no idea of blood,—or that his body was lying under the walks which these characters profaned by their foot-steps. There was almost every day some attempt to use Mr Millie's musical instruments; and Henderson had even bought a trumpet or bugle-horn, from which he drew *harsh discord;* for however light of heart he had no skill in music. The day on which the King was proclaimed at Auchtermuchty, seemed to be one of particular noise and merriment with him and his associates; so much so, that the young woman whom we have mentioned (the gamekeeper's sister) heard them without doors, and exclaimed, "Surely Millie's man and his friends are proclaiming the King to-day in Whinny Park, too" It is singular, that in their feastings and drunkenness these people, in procuring water for their punch, &c., must have passed and repassed and trampled on the grave of the murdered owner of the property which they were wasting. There are only two places in which they could have procured water; one at the well, which could not be reached without stepping over the grave—and the other at the little rivulet we have mentioned, the path to which passes the same spot, but which does not afford water to be used for culinary purposes. It was at one time said that Henderson and another person, supposed to be an accomplice, were seen standing on the grave, and playing on a bugle-horn: this, however, we believe to be a gratuitous addition to horrors already sufficiently deep. Though the persons who thus associated with him on the premises of his master, and shared in their spoils under circumstances so suspicious, hardly deserve to be spared, we shall leave it to

others to criminate them,—if they actually know, or has shared in his atrocities,

Henderson continued to account for his master's prolonged absence by saying that he remained in Edinburgh to prepare for some law proceedings for the recovery of the small patch of ground, sold as we have mentioned. As Mr Millie, with the superstitious attachment to the property of his "*forebeers*" for which he was remarkable, had frequently expressed a wish that this were in his power; the reason assigned for his absence, passed tolerably well. Henderson appears to have used this time to the best advantage in prosecuting his schemes of depredation; opening drawers, and carrying off cloth, yarn, books, &c.: and at one time he even stole the family bible, and sent it off either to be sold or as a present to some of his acquaintances. He had some associates about Auchtermuchty, who were seen (as is now asserted) carrying basket loads to that place: some disreputable females there were his frequent companions, and received from him articles of dress, went with him to the public houses, and one of them it is said accompanied him once with a gig to Dunfermline. He made a second visit to this place; and even went over to Edinburgh; where it is said he wrote a letter addressed to himself in Whinny Park, and written as if from Millie. This he received on his return; and read it in order to explain the reasons of his master's continued absence.

But perhaps the most extraordinary part of the whole was his conduct with regard to the title-deeds of Mr Millie's feu. He absolutely carried these to a legal gentleman in one of the neighbouring towns, in order to ascertain if a deed could be made out from them in his own favour, so that he might possess the property or sell it. So much coolness and deliberation in crime is almost unexampled: he afterwards sent the papers in a packet, to be left at a music shop in Edinburgh, the owner of which was totally unknown to him, except by advertisements on the instruments he sold: he had intended it is supposed to call for the papers on some future occasion in order to carry into effect his purpose as to the disposal of the property. He shewed them to some persons before sending them away, as a proof of

the confidence his master reposed in him; and said that Mr Millie wanted them in Edinburgh on account of the law proceedings we have mentioned. It is remarkable that, though he can write sufficiently well himself, he frequently chose to have the parcels or letters sent to his master directed by some one else—in order, it is supposed, to make greater ostentation of the correspondence which he pretended to carry on with him.

Immediately before the discovery of the murder, he went to Mr Taylor, Lord Leven's agent, and presented a draft for £18, due from his Lordship to Millie: payment was at first refused, the draft not being indorsed. He returned with it next day, with Mr Millie's signature affixed, and received the money, thus adding forgery to his other crimes.

With many persons the reasons alleged for Mr Millie's absence continued to pass current. In Auchtermuchty however (where his associates chiefly resided) it began to be noticed that the man was spending a great deal more money than a weaver's earnings could possibly afford; at one time he hired a gig to go on some jaunting excursions; at another he made a dinner for a number of people of his own caste at one of the public houses there; he bought some musical instruments; and was seen to have a watch: his former appearance had been mean in the extreme. All this attracted notice, and began to cause much suspicion; still no one thought he had a right to interfere, and the more so, as Millie's aversion to the intermeddling of neighbours was generally known. On one occasion, indeed, one of the special Constables in Collessie, seeing Henderson spending money in one of the public houses, said to him, "You rascal, how do you come by all this?—you must have murdered your master,—and have buried him in his own yard, I have no doubt." Mr Farmer of Pathcondie (Millie's near neighbour, and a tenant on the Melville estate,) entertained fears of the same kind, and went more than once to look at the premises. Still these suspicions, though held by numbers, had no distinct foundation; and as the reason given for Millie's absence was both plausible in itself, and somewhat agreeable to his usual habits, it continued to pass unquestioned. Henderson continued, however, at

all times reluctant to sleep on the premises; and passed his nights generally at Newburgh or Auchtermuchty:—and once when obliged to remain all night in Whinny Park, he prevailed on one of the neighbouring farm servants to sleep with him. The poor lad now recollects that night's repose with a horror which, he says, "gars a' his flesh grue."

On Saturday the 24th July, the day on which the murder was discovered, one of Millie's sisters (Mrs Barclay), who has been a long time married in Strathmiglo, alarmed by the strange reports concerning the man's conduct, came to the house to make enquiries: he coolly told her that her brother had returned from Edinburgh that morning, but had gone since with another gentleman on some business to Cupar; but that in the mean time every thing was left to his charge, and he would see to it. Mrs Barclay was little satisfied with this explanation; and judging of the man's character from his impertinent manner of speech, cross-questioned him a good deal on the circumstances of her brother's absence. He persisted, notwithstanding many inconsistencies, in maintaining his story; and she was obliged to leave him without any satisfaction. After she departed, the callous wretch was heard attempting to perform on some musical instrument; he could not play, however, at any time, and the sounds he now produced were as discordant as the horror of his own feelings. This was about 11 o'clock of the day; and he appears soon after to have left the place.

The popular suspicions had now however become uncontrollable: the whole of this day (24th July) one or other, without any concert, was continually approaching to examine the state of the premises: and towards eight o'clock in the evening two or three of the nearest neighbours met in the garden*; these were quickly joined by others who happened to be passing, and who, though they came only by accident, all entertained the same

* These were Mrs Smith, wife of Lord Leven's grieve; Mrs Balfour, from Monimail; Diana Christison, the game-keeper's sister; and afterwards James Hennamon; Henry Heggie; and some plasterers working at Melville.

suspicions: it was agreed immediately to enter the house and examine it. The first suspicious circumstance was a part of the floor of the workshop which exhibited the appearance of having been freshly broken: the earth was soft, and it was conjectured that here was the grave of poor Millie. On turning up the mould, it was found to have been dug almost sufficiently deep for such a purpose, but the corpse was not there: the ideas it excited confirmed, however, all the previous alarm: and one party went immediately to search the dwelling house, while another examined the appearance of the garden. Among the latter, Henry Heggie (one of Lord Leven's servants), jumping down from a high bank on the footpath which led to the well, perceived something suspicious in the yielding of the ground under him; the earth also seemed here to be more fresh than in the rest of the path, and on a spade being procured, one minutes' work brought to light the appearance of a man's hand; and the heavy corpse-like smell from the uncovered earth sufficiently told what remained. The appearance of the hand, already discoloured and blackened by the progress of putrefaction, and protruding in the dusk from the broken clods, was sufficiently fearful; and prepared as they were for the result, this confirmation of their suspicions produced emotions of horror among the country people hardly to be described: one of the spectators describes his feelings as so overpowering, that his knees smote one another with the violence of an ague: a number of these present were females, who, from their natural aversion to the vagrant character of the man, had been most active in alarming suspicion against him; the feelings of these on seeing this horrible confirmation of what they had dreaded, were intense and overwhelming. It was judged proper not farther to disturb the body till the arrival of some person in authority: no time, however, was lost; and one of the Earl of Leven's servants (he who had observed the spot) was sent off directly to Cupar.

It was now near ten o'clock at night; but the rumour of what had been discovered spread immediately to the neighbouring farms, and the villages of Letham and

Collessie: so that numbers of the country people arrived from all directions and crowded round the premises. Some respectable persons had, however, been placed as sentries that no one might be admitted to disturb the place, or disarrange any appearances on which evidence might depend.

The distance from Cupar to Whinny Park is about seven miles, yet in less than two hours Mr Jameson (Sheriff Substitute) was on the spot with two medical gentlemen, Dr Grace of Cupar and Dr Malcolm of Letham,—and Kennedy the officer. The country people, though it was now past eleven o'clock at night, had assembled in great numbers from the whole neighbourhood; and the scene presented, in disinterring the body, which was done by torch light under the direction of the Sheriff, was truly appalling: the evening was perfectly calm, so that the flame of the torches glared quietly on the discoloured features of the corpse as they were gradually disencumbered of the earth; and the strange lurid reflection from the overhanging trees and the faces of the surrounding people, gave an interest to the scene almost too painful for recollection. From the length of time it had been in the ground, there was some hazard of the body falling to pieces in the disinterment; and had it not been for the dress, and certain marks known to one of the medical gentlemen, the features were so fearfully changed that no evidence could have identified it. On being brought to the house and washed, the marks of violence were dreadfully visible: one heavy stroke had been given on the back of the head, which had seemingly stunned the victim; and two blows near the temples (apparently with a common wright's hammer) had perforated the scull, and driven fragments of it down to the very centre of the brain.* The Sheriff now went to the work-shop, where it was supposed the murder had been committed; and here, after a little examination, traces were discovered which pointed out the scene, and almost the manner, of the action. Blood was discovered beneath the seat of one of the looms, on the web, and

* The certificate of the medical gentleman who examined the body is appended to this notice.

on the stretchers: it appeared therefore that Millie had been sitting on the loom--that he had been first stunned by a blow on the back of the head, and on falling had been killed outright by two blows with the claws of a hammer on the temples. The murderer had attempted first to bury the body in the place where the deed had been committed; and a pit (as has been noticed before) dug for that purpose, but filled up again, was found here under an unoccupied loom-stance; the shallownes of the earth (for the place, as we have said, stands on a rock) had however defeated his intentions; and he had then selected the footpath to the well, as being less liable to suspicion, after being dug up and again trampled on, than any of the proper garden ground: this was covered in great part with a crop of growing barley, and could not of course have been disturbed with the spade without causing immediate observation. It came out afterwards that some of Mr Millie's friends, who had called at the house about a week or ten days after his first disappearance, found the door of the shop locked: and that those who called a little before the discovery of the murder (for one or other continued to look in on the place) found it not only open, but the key gone, and the key-hole filled with cobwebs. It is conjectured, therefore, that the body had lain for the first week in the pit found in the workshop, and then, in the terror of discovery from the smell, been taken to the grave dug in the pathway. From a sheet having been found under the body when it was first discovered, it is supposed that he had wrapped it in this envelope, and finding it too heavy to be carried, had dragged it along on the ground—from the workshop to the pit—a distance of perhaps about sixty yards.

We have given these circumstances without interruption: as necessary to give a complete idea of the appearances presented on the first inspection of the place: but the Sheriff had in the meantime taken measures for apprehending the supposed murderer. On his appearance being described by the neighbours, a gentleman accompanying the Sheriff, recollected that morning meeting on the Edinburgh road with a person of a shambling awkward gait, like Henderson's, who was

proceeding southward. 'He appeared," said the gentleman, "to be somewhat perplexed in his movements, stopping and looking behind, and making no very hurried progress in his journey." From his appearance and dress, the Sheriff entertained no doubt of this being the person; and from his leisure movements, it appeared that he was not urging onward to seek flight by crossing at the ferry: Mr Jameson therefore concluded that he would proceed to his native place in Dunfermline: Kennedy, the officer, (lately a serjeant in the seventy-ninth Regiment), and a lad of the name of Brebner, who knew Henderson's person, were sent off in a gig in that direction immediately. Other two persons (special constables) were dispatched to Leslie, where the fellow used to say that he had an uncle.

Kennedy with his companion tracked his route as far as the Leslie road; but losing traces of him there, they proceeded by Kirkaldy to Dunfermline. They went immediately to the Bauldridge Burn, where Henderson had said that he lived: they found his parents and brothers—decent, quiet looking people, and very unlike the parents of such a son: immediately on inquiry being made if "John was at home," his mother stood up with a kind of terrified solemnity, and said, "If ye want John, it'ill be for nae gude—for tho' he be my son, he is an evil an' desperate man: but he's no here; he comes na often near us." The officer thought it necessary to search the house, but found that the poor woman had said true—he was not there. Perplexed a little at this circumstance, he thought next of applying to the authorities in Dunfermline: he met here with the most prompt assistance, but gained no information; and considering himself baffled in this place, was thinking of setting out for Leslie, where Henderson might have remained at his uncle's. It occurred to him, however, that though the fellow had not gone to his father's, he might have some other *howff* about his native place: on inquiring concerning this circumstance, he learned that there was a certain low tippling-house in the Kirkgate, called the Old Inn, which he was supposed to frequent; it is kept by a man of the name of David Short. Kennedy, Brebner, and

one of the Dunfermline officers, went to examine this place together.

On inquiry if there were any lodgers in this house, the people answered, " they had one Irishman, but he had been up and away by six o'clock." " We had better search, however," said Kennedy; and in the first bed-room they entered, Brebner observing clothes on a chair, recognised them at once, and exclaimed, " We have him now." The lodger slept, or pretended to sleep wonderfully sound: on being touched, however, he got up with a convulsive start, and exclaimed, " What's wrang? what's wrang?" He was immediately recognised, and having been desired to dress himself, the warrant was read to him; on hearing it, he observed composedly, " I am as innocent of that crime as you are." The Dunfermline officer said, " John, we have two warrants against you for thieving; but this is a worse business than ours—you are in the *claw* now, I am afraid." He expressed much reluctance to walk through the streets of Dunfermline, and wished to have the gig brought to the place where he had slept. He was however manacled, and taken to the inn. He declined taking any breakfast; but after setting out in the gig with the officer and Brebner, he displayed the greatest composure, answering their questions readily as to the names of places along the road, and dwelling on the appearance of the country, where he knew it better than they did. They arrived at Cupar about half-past three o'clock, just as the congregations were dispersing from afternoon's service. The expedition used by the officer selected by the Sheriff, may be judged, when we mention that he only left the scene of the murder about 12 o'clock on Saturday night, went to Dunfermline, calling at most of the public houses on the way; and had returned, and got the man lodged in Cupar Jail by half-past 3 o'clock on Sunday afternoon, though he was obliged, from the necessity of changing the gig, to go and return by the circuitous road of Kirkaldy. One circumstance deserves to be noticed: at almost every public house where he called, he met with the most prompt attention, and frequently with essential information. There was one house, however, near Orr's Bridge, kept by a

man of the name of Hutton, but commonly called *Flutorum;* where this was not only refused, but where the owner even remained obdurately silent to all the calls of the officer, though he was told that it was an errand of justice.

The activity with which the Sheriff-Substitute in the short time that elapsed, examined the premises, ascertained the circumstances connected with the murder, and had the wretched creature apprehended, cannot be too much praised. A good deal yet remained to be done in selecting the most direct evidence, and in discovering persons who might identify the articles sold; but no exertion was spared by the authorities in investigating every thing connected with the evidence.

Information having by this time spread through the country, people began to compare notes as to what they had observed in Henderson's conduct; and notice was conveyed to the Sheriff of various circumstances which might lead to his readier conviction. Some of the inhabitants of Newburgh in particular, where he had disposed of a quantity of linen, &c., in the character of a small trader from Dunfermline, recognised him in the descriptions they heard; and sent their town-officer to Cupar to give information. It appears that he had sold in that place towels, table-napkins, table-cloths, &c. to a large amount; a set of silver tea-spoons, a barometer, a spyglass, &c. assigning as the reason for having the latter articles in his possession, that he usually took them in barter for his own goods. It was singular that the silver tea-spoons were lost at Lindores, and that they were found by a little girl of that place, delivered to him again, and afterwards sold in Newburgh. Four weeks exactly had elapsed from the time of the murder to its discovery; and the quantity of property Henderson had taken from the house, and the coolness with which he had carried on his depredations all this time were astonishing.

From the time of the discovery (Saturday night) till the day of the funeral (Tuesday) crowds continued to flock to the place without ceasing. On Sunday there could not be less than 1500 persons present; and on

Monday, when the Sheriff was expected to bring the prisoner for examination to the spot, the whole roads in the neighbourhood were full, like some immense fair, from morning to night. The scene in the mean time on the premises was full of a deep and horrible interest. The windows of the room where the corpse was laid, were left open, on account of the heavy and oppressive smell which diffused itself over the whole place—the successive crowds were occupied, some in looking in at this spectacle; some in pointing out to each other the drops of blood visible at the loom where the murder had been committed; and others examining the grave where the body had been deposited, and where a quantity of Millie's grey hair (for though only about 46 or 48 his hair was grizzled) still remained adhering to the mould. It was singular that at this place a nest of wild bees had taken up their residence in the overhanging bank, and continued their operations the whole time, disregarding both the crowds, and the offensive smell which must have emanated from the place. Another singular circumstance gave rise to much mysterious speculation among the country people: There is a small dog kennel on the opposite side of the wall which divides at this place the garden from Melville pleasure grounds: the dogs kept here had been observed for the whole previous month to howl impatiently, and in a manner totally unlike their usual cry; the neighbours now assert that there was something of unaccountable and ghost-like horror in the sound. The probability is, that as the kennel is only a few yards distance from the shallow grave, the animals had perceived the scent, and had mistaken it for carrion, with which they were to be fed.

It is most singular, that for some years Millie had now and then expressed apprehensions of dying in the way he did; or of being found dead in his house alone. The case of a solitary person near Falkland, who was found dead in his bed, with his face devoured by a cat, used to give him great uneasiness: and he spoke of it frequently. Yet of falling by the hands of the strangers whom he called into his employment, he never seems to have entertained any apprehension.

The funeral of Mr Millie took place on Tuesday the 27th of July, and was attended by a numerous and respectable assemblage—but by no means by any mob. The clergymen of the two adjoining parishes, the Reverend J. Brodie, and the Reverend D. Ogilvie, were both present; as were also the most of farmers in the immediate neighbourhood. Mr Millie had lately erected a little monument, to the memory of his parents, in Monimail church-yard; and his own grave was made beside theirs. There were two brothers-in-law to attend to the decencies of his funeral; and the whole was conducted with that propriety and order which is characteristic of the country-people of Scotland on such occasions.

The crime is in its whole circumstances, one of the most atrocious which has been known. In the coolness with which it seems to have been projected and carried into execution, it comes nearest to the murder of Weare by the miscreant Thurtell: but there the criminal and his victim had both equally forfeited the respect of honourable men: in the present case, Millie was a person who, if somewhat remarkable for his secluded habits, was valued both for his ingenuity and integrity: he had afforded the person upon whom suspicion has fallen, an asylum and decent means of subsistence, when he was wandering the country in rags, without even shoes or stockings; and had become security for him when he wanted credit for purchasing the most ordinary necessaries of life. The coolness with which the wretch had continued, for a whole month, to carry on his depredations after the murder, is not the least striking indication of his hardihood; and will scarcely find its parallel in any of the former records of crime.

A most singular circumstance connected with this affair has lately come to our knowledge; and which we should have had some hesitation in publishing, had not the gentleman who witnessed it, allowed us at the same time to authenticate it by his name. On the Wednesday night (21st July) before the discovery of the body, the Reverend Alexander Espline, parochial teacher in Monimail, chanced to be returning from Auchtermuchty to

Letham, and was passing Whinny Park about 11 o'clock. On coming within about 300 yards of Millie's property and where the body (though Mr Espline did not know of it) was then lying, he observed a dull glimmering light near the end of the house; the circumstance did not at first attract much of his attention, nor did he trouble himself to think what might be its cause: but on proceeding nearer he was struck by observing a much larger flash apparently from the same spot; this was of a bluish appearance, and considerably fainter than the small light he had noticed at first. As he went onwards, conjecturing what might be the occasion for lights—apparently out of doors—at this time of night, the smaller sparkles continued almost without intermission: and when within about 30 or 40 yards of Millie's property, a flash of most startling magnitude was again suddenly thrown up, so as to render the surrounding objects distinctly visible—the gable of Millie's house, the surrounding trees, and the park wall of Melville, were exhibited in a kind of lurid bluish light, which was at once unaccountable and ghastly. In the intervals between the large flashes, the objects which had been rendered visible by their light, seemed to recede into tenfold darkness: and the gloom of the scene appeared absolutely terrible. Mr Espline describes his sensations as unaccountable; for though he had no suspicion of any thing being wrong about the place, and continued to attribute the appearances to some light used on the premises, he could by no means reconcile this idea with the phenomena—particularly when on coming in view of the back windows, he saw there were no lights in the house. From observing too at the gate a cart load of coals still remaining and not carried into the house, he saw that Millie was not at home, and that the place continued solitary as he had left it in the morning. His ideas, therefore on stopping a moment to look back at the place, were in that kind of uneasy perplexity, which one feels on being unpleasantly alarmed, without being able to satisfy one's self as to the cause. The circumstance occupied his mind so intensely that he thought of calling on an acquaintance in his way, and returning with him to the spot; but it was by this time past 11, and his friend's

family were in bed. Next morning he mentioned the circumstance to his servant as something remarkable; but not knowing how to explain it, and being engaged at the time on an occasion of solemnity in a neighbouring parish, he did not think farther of the matter till some days after the discovery of the murder. On reflecting on the circumstances in which the body had been found, the time it had lain in the earth, and the shallow covering by which it was protected from the air,—he was immediately struck with the idea that the light he had observed must have been that description of "ignis fatuus" called by the country-people *corpse-lights*, and *church-yard-candles*: the night on which the appearance was observed was mild and calm: the temperature (as has been ascertained from the register thermometer kept at Melville) had been about 69° through the day, and 46½° at the lowest during the night. There is no doubt, from all the circumstances, that the appearances observed by Mr Espline must be attributed to the class of phenomena we have mentioned. We have been particular (and perhaps some readers will think us prolix) in detailing the circumstances, because there have been doubts as to the cause, and sometimes even the existence of the phenomena in question. The present occurrence, observed by a person of character, and habituated to observation, on a spot where it could hardly have any other origin than that usually assigned, sets doubt completely at rest. A friend, to whom we related the circumstance, mentions that another good effect may arise from making the appearance public, besides the verification of a fact in natural history: and this is, that those who care nothing for ascertaining the cause of an ignis fatuus, may nevertheless be impressed with the feeling that the *corpse-lights* afford additional means for the detection of crime—and for the punishment of wretches like the murderer of poor Millie.

In the interval between the apprehension of Henderson and the trial, Whinny Park continued to be the object of increasing interest, and every day added to the numbers who had already visited the scene of the melancholy and wicked transaction. The approach of the

trial and the number of witnesses summoned, caused the greatest excitement: there were more than 90 persons cited as evidence, most of whom were of course from the neighbourhood of Whinny Park: so that in the adjoining district it formed almost the whole topic of conversation; this feeling was partly also kept up by the number of idlers who thronged to see the garden, shop, and other spots connected with the murder; and who were described by the neighbours as sitting on some days about the premises as thick as "folk at a tent preaching." From all parts of our own, and many of the neighbouring counties, people continued, without intermission, to throng the route that leads to the place. Sometimes solitary individuals, at other times, groups were seen demanding the road, or wandering on their way thither; nor was it always pedestrians who were smitten with the desire of witnessing the palpable evidences of innocently shed blood, but the glittering equipages and the quality of the equestrian shewed that the wealthy and the gay, the learned and the grave, have the same feelings to gratify, the same thirst of vengeance for the taking away of man's life, which we find is more keenly whetted after an inspection of the blood-stained premises; and even the softer and more refined portion of society were the loudest in their outcry against the steely heart of the fiend that plotted and executed the execrable deed. But it is a surprising anomaly that those who were the most forward to visit this now celebrated spot, were they who feel the greatest horror at the crime, and who would shrink with the utmost repugnance from passing this lonely road on an evening; still they must have found a strange unexplained gratification in contemplating the act of a man upon whom, in their minds, the avenues of pity were for ever closed. For, having seen the blood and the grave, and the bed where the victim slept calmly, and the loom upon which he may be supposed to have struggled violently, and the elegant and complete house, formerly the resort of innocence and the pride of his life, they appeared to appease their excited feelings with the belief that fearful remorse and a dreadful futurity will smite the victim of passion and vice. Shreds of cloth and *pirns*, or whatever

simple commodity fell in the way were eagerly caught up by female visitors as relics of unfortunate and departed worth; but the grasping and grovelling appetites of the despicable depredator had left little for objects of curiosity or veneration. Many pots of jelly which Millie used to have in careful and excellent preservation, had been consumed after his death; and in this, as much as any thing else, Henderson discovered the grossness of his manners, for he had not taken the trouble to untie the covering, which, being paper, he appears to have thrust his hand through in order to come at the sweetened morsel. The anxiety felt for his conviction was strongly exemplified by the jealousies that were constantly agitated that he might possibly escape; at one time it was thought that one part of the evidence might be deficient; then another: and at other times pretences of insanity, it was feared, might screen him from condign punishment; but in all these surmises, we only recognise an over eagerness that just judgment might be unincumbered.

It is not perhaps proper to say much on the behaviour of Henderson while in the jail, in the interval between his apprehension and his trial. He was at that time merely kept in security in order that he might be in readiness to answer the charge brought against him; and that a jury might pronounce upon his guilt or his innocence. If, in the preceding pages, we have said any thing that may in regard to a person in his situation, seem to intimate too decided an opinion of his guilt, we beg it to be understood that it is spoken merely as the echo of popular opinion; which, from the beginning, had little hesitation in pronouncing him guilty. He had lived on the spot where the body was lying for weeks, and had profited by the death of the owner; yet, with all opportunities for detecting the crime (if another perpetrated it), he never spoke of such a thing; while others, with no better means of discovery than himself, and who had only suspicions to guide them, of which he was equally aware with them, discovered it after being present only half an hour. These circumstances guided public opinion, and rendered it uncontrollable; and if we have spoken with its voice, before we give the verdict of the jury, we hope to be excused,

even by those who advocate most strictly the forms of the law.

To recur to the behaviour of Henderson while in confinement, we may remark, in general, that it was seen in a different light by every one, according to the ideas he entertained of his guilt or innocence. Those who believed the former (which, with few exceptions, was the case with all,) imagined that his conduct was marked by an assumed boldness and hardihood, which was unbefitting his condition: and they believed that the situation of a man, at one time reading religious books to prepare for death, and at another time inventing the circumstances of a defence to save his life, was appalling and fearful. To those who could see his connection with the crime in a different view, any frivolity of manner, or disregard of popular opinion, might appear to arise from a very different state of feeling.

Henderson remained in the jail from Sunday the 25th July to Tuesday the 7th September.

On the morning of the latter day he was taken in a carriage to Perth, accompanied by the officers. A great crowd was assembled to see him depart, who hissed and huzzaed as the carriage passed them; he appeared to be quite collected and even smiled: but it was evident to those who saw him nearer, that much of this was assumed; and however much he might endeavour to conceal his feelings, his situation and the triumphant shouts of the populace certainly affected him deeply.

At Newburgh the people, who knew that he was to pass in the morning, had assembled in great numbers at the Inn where carriages usually stop; they were crowded even on the tops of the neighbouring houses: and when the coach appeared, testified by loud shouts their belief and exultation that the day of retribution was come. The officers, seeing the crowd of people, and the temper they were in, did not stop, as they usually do to breakfast, but hurried directly forward.

THE MEDICAL CERTIFICATE.

After the body was disinterred from its temporary grave, it was taken to the house, and washed, for the inspection of the medical gentlemen. The appearances of violence, and those circumstances which seemed to indicate the length of time it had been in the ground, were observed by them: and to give a better idea of these we subjoin the certificate which they signed, and which forms part of the evidence.

Cupar Fife, 27th July, 1830.

On the evening of the 24th instant, we, by order of the Sheriff-Substitute of Fife, proceeded to Whinny Park, near Monimail, in the parish of Monimail, county of Fife, to examine the dead body of a man which had been discovered that afternoon buried in a garden.

On our arrival at the place, we found the body still under ground, which we got carefully disinterred and carried to an adjoining house; where, after removing the body clothes, with which it was buried, we made our inspection.

The body appeared to have been dead four or five weeks; the putrefactive process having made considerable progress throughout the whole of it.

There is a wound of the scalp, on the fore part of the right side of the head, measuring an inch and a half in length, and an inch and a quarter in breadth; with a corresponding fracture of the anterior part of the right parietal bone: the fractured portions being driven into the brain, and lodged within its substance.

On the back part of the left side of the head, a little above and behind the ear, there is another wound, about an inch in circumference, exposing a fracture and depression of the subjacent temporal bone, two inches in length; part of which is detached and beaten into the brain.

There is likewise a superficial ragged wound, about three quarters of an inch in circumference, over the superior portion of the occipital bone; but it is slight, and does not penetrate beyond the integuments or skin.

The left side of the face, mouth, and nose, are of a black colour; but this appearance we attribute to the position in which the head lay while under ground.

No mark of external violence could be observed on any other part of the body.

(Signed) CHARLES GRACE, M. D., Cupar.
MICHAEL MALCOLM, Surgeon, Letham.

HENDERSON'S INDICTMENT.

THE following is a copy of the Indictment on which Henderson was tried at Perth :—

"JOHN HENDERSON, damask weaver, present prisoner in the jail of Cupar-in-Fife, you are Indicted and Accused at the instance of Sir WILLIAM RAE of St Catharines, Baronet, his Majesty's Advocate, for his Majesty's interest: THAT ALBEIT, by the laws of this and of every other well governed realm, MURDER; as also THEFT; as also FORGERY; as also the USING and UTTERING as genuine any DEPOSIT RECEIPT or VOUCHER, by any Bank or Banking Company, for payment of Money, having any false or forged subscription thereon, of any person as indorser thereof, for the purpose of fraudulently and feloniously obtaining payment of the sum therein contained, knowing the same to be false and forged, are crimes of an heinous nature, and severely punishable; YET TRUE IT IS AND OF VERITY, that you the said John Henderson are guilty of all and each, or of one or more of the said crimes, actor, or art and part: IN SO FAR AS, (1.) on the 26th day of June 1830, or on one or other of the days of that month, or of May immediately preceding, or of July immediately following, you the said John Henderson did, within or near the house or weaving apartment, then or lately occupied by the now deceased James Millie, weaver, situated at Whinny park, in the parish of Monimail, and county of Fife, violently, wickedly, and feloniously attack and assault the said James Millie; and you did

with a hammer, or other ponderous and lethal instrument to the Prosecutor unknown, strike him several severe blows on the head, by which his skull was fractured, and he was instantly bereaved of life, and thereby murdered by you the said John Henderson: (2.) FARTHER, at various times to the Prosecutor unknown, from the said 26th day of June 1830 to the 24th day of July 1830, you the said John Henderson did, within the said house or weaving apartment occupied by the said James Millie before his said death, situated at Whinny park aforesaid, wickedly and feloniously steal, and theftuously carry away therefrom, the various articles specified and contained in the Inventory No. I. hereunto annexed, as relative hereto, being all, at the time of his death, the property or in the lawful possession of the said James Millie, and at the time of the said theft or thefts the property, or in the lawful possession of Jean Millie or Barclay, wife of John Barclay, merchant, then or lately residing at Strathmiglo, in the parish of Strathmiglo, and county of Fife, or of the said John Barclay, and of Catharine Millie or Smith, wife of James Smith, mason, then or lately residing at Moonzie, in the parish of Moonzie, and county of Fife, executors and nearest of kin of the said James Millie, or the property or in the lawful possession of some other persons to the Prosecutor unknown, the heirs, executors, or representatives of the said now deceased James Millie: (3.) FARTHER, on the 15th day of July 1830, or on one or other of the days of that month, or of June immediately preceding, you the said John Henderson did, within the said house formerly occupied by the said James Millie, situated at Whinny park aforesaid, or in some other place within the county of Fife to the Prosecutor unknown, fraudulently, wickedly, and feloniously forge, fabricate, and counterfeit, or cause or procure to be forged, fabricated, and counterfeited upon the back of a deposit receipt for £18, 4s. 7d. sterling, by the branch of the Commercial Banking Company of Scotland, at Cupar-in-Fife, in favour of the Right Honourable the Earl of Leven and Melville, and which was blank indorsed by the said Earl, and which was lying in the repositories of

the said James Millie, and formed part of his property at the time of his death, and bearing to be dated 9 June 1828, the words 'James Millie, Whinny park,' intending the said words to be in imitation of, and to pass for, and be received as, the genuine subscription of the said deceased James Millie, murdered by you as aforesaid: LIKEAS, on the 16th day of July 1830, or on one or other of the days of that month, or of June immediately preceding, you the said John Henderson did, within the office of the branch of the said Commercial Banking Company of Scotland, situated at Cupar-in-Fife, fraudulently, wickedly, and feloniously use and utter as genuine the said deposit receipt, with the said false, forged, and counterfeited subscription indorsed thereon, knowing the said false, forged, and counterfeited subscription to be false, forged, and counterfeited, as said is, by delivering the same, then and there, to Walter Walker, then or lately teller in the office of the said branch of the Commercial Banking Company of Scotland in Cupar-in-Fife, or to Robert Edgar, then or lately clerk in the office of the said branch, for the purpose of obtaining payment of the sum therein contained, and interest thereon, all which was then received by you: And you the said John Henderson having been apprehended and brought before Andrew Jameson, Esq. sheriff-substitute of Fifeshire, did, in his presence at Cupar-in-Fife aforesaid, on the 25th and 30th days of July 1830, emit and subscribe two several declarations: Which declarations, as also the various papers, writings, and articles, specified in the Inventory No. II. hereunto annexed, as relative hereto; as also the stolen articles above or hereafter specified in Inventory No. I. hereunto annexed, as relative hereto, or part thereof, to which labels are now attached, as relative hereto, being all to be used in evidence against you at your trial, will for that purpose, be in due time lodged in the hands of the clerk of the circuit court of Justiciary, before which you are to be tried, that you may have an opportunity of seeing the same: ALL WHICH, or part thereof, being found proven by the verdict of an Assize, or admitted by the judicial confession of you the said John Henderson, before the Lord Justice-General, Lord Justice-Clerk, and

Lords Commissioners of Justiciary, in a circuit court of Justiciary to be holden by them, or by any one or more of their number, within the burgh of Perth, in the month of September, in this present year 1830, you the said John Henderson OUGHT to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

No. I.

INVENTORY of Stolen Articles referred to in the foregoing Indictment.

1. *Deposit receipt for £18, 4s. 7d. sterling, bearing to be dated 9 June 1828, by the Commercial Banking Company of Scotland, in favour of the Right Honourable the Earl of Leven and Melville.*
2. *A large fine damask table-cloth having a flower figure.*
3. *A large damask table cloth with a star figure.*
4. *Three breakfost table-cloths in one web with a flower figure.*
5. *A large damask table-cloth with a flower figure.*
6. *A large damask table-cloth with a flower figure.*
7. *A large damask table-cloth with a flower figure, and eight damask table-cloths in one web, with a sprig figure.*
8. *A large damask table-cloth with a tree branch figure, and six small damosk towels in one web with a sprig figure.*
9. *A large damask table-cloth with a Scots thistle figure.*
10. *A large damask table-cloth with a tree branch figure, and an old bag.*
11. *Six damask towels in one web with a tree branch figure.*
12. *Six damask towels in one piece.*
13. *Six yards of bleached haggabag towelling and a bag.*
14. *Three linen shirts.*
15. *A bag having the name James Millie written on each side on the outside.*
16. *A blue cloth coat.*
17. *Four bundles of yarn consisting of thirty-one and a half spindles or thereby.*
18. *Four volumes of Forsyth's Abridgement of the General Public Statutes of Scotland.*
19. *A spy-glass.*
20. *Six silver tea-spoons, and a pair of silver sugar-tongs.*
21. *A weather glass.*
22. *Nineteen damask towels or thereby in a greenish state, in four separate pieces.*
23. *Three towels in a greenish state.*
24. *A sealed paper parcel, supposed to contain the title-deeds of Whinny Park, and other papers, and directed on a piece of paper on the back, 'To Mr James Milley, care of Mr Robertson, No. 47, 'Prinses Street, Edinburgh.'*

25. *A Bible.*
26. *A tortoise-shell snuff-box.*
27. *A gold brooch with a cairngorum stone.*

No. II.

INVENTORY of Articles referred to in the foregoing Indictment.

1. *Medical report or certificate, bearing to be dated Cupar Fife,* 29 *July* 1830, *and to be signed Charles Grace, M. D. Michael Malcolm, surgeon.*
2. *Plan, bearing to be entitled, 'Plan of Whinny park, in the parish 'of Monimail, and shire of Fife, made by order of the sheriff-substitute of Fife, per Henry Jackson, July* 1830.'
3. *A paper or writing, bearing to be dated 'Whin park,* 1 *June* 1830,' *and to be signed 'Jas. Millie,' and to be addressed on the back 'Mr Kyd, writer, Cupar.'*
4. *A paper or writing, bearing to be entitled on the back, 'Minute 'respecting a parcel within mentioned,* 27 *July* 1830.'
5. *Two iron hammers.*
6. *An iron beam pin.*
7. *A piece of table-cloth cut from a loom in the shop of the deceased James Millie.*
8. *A wooden snuff-box.*
9. *A green cassimere vest.*
10. *A pair of corduroy trowsers.*
11. *A pair of whitish worsted stockings.*
12. *A linen shirt.*
13. *A flannel shirt.*
14. *A pair of flannel drawers.*
15. *A dark coloured neckcloth.*
16. *A man's black hat.*
17. *A wine coloured cloth coat.*
18. *A pair of jane trowsers leadish colour.*
19. *A pair of moleskin trowsers, leadish colour.*
20. *A jane vest, leadish colour.*
21. *A striped cotton vest.*
22. *A linen shirt.*
23. *Three pair of worsted stockings, and a pair of cotton stockings.*
24. *A linen apron.*
25. *A piece of tweeling linen cloth.*
26. *A letter or writing, bearing to be dated Whiny park,* 19 *July* 1830, *and to be signed John Henderson, and to be addressed on the back To Mr James Milley, care of Mr Robertson, No.* 47, *Princes Street, Edinburgh.*

TRIAL OF HENDERSON.

THE trial came on at Perth on Wednesday the 8th September, about eleven o'clock. When brought to the bar, Henderson's appearance was perfectly collected, and he seemed altogether unconscious, except by a slight flush in his countenance, of any thing singular in his situation, or in the feeling of the spectators towards him. His countenance appears to wear a certain habitual complacency, which did not forsake him in the situation in which he was now placed. He has a kind of weakness in his eyes, which seems to prevent him from keeping them sufficiently open; and gives his physiognomy a peculiar appearance. He heard the most agitating parts of the evidence against him with apparent calmness; and whenever it was required that he should be identified by any of the witnesses he rose readily, with an appearance of courtesy, and attention to the wishes of the Court, which was sufficiently striking.

Mr Deas, advocate, was counsel for the prisoner.

At the request of the prisoner his indictment was read. This document, with some of its appendages will be found at page 35.

Mr Deas stated, as an objection to the relevancy of the indictment, with regard to the forgery, 1st, that the name of the person said to have been forged was that of a person not then in existence, and that therefore it was not really a forgery. 2d, That the name said to have been affixed was not necessary to the validity or force of the deposit receipt; but that the money could have been as well drawn without it. The affixing of the name, therefore, did himself no service, and others no injury: and as these conditions were necessary to complete the crime of forgery, it could not have in this case been committed.

Mr Smith stated, that the 1st objection was of no value, because otherwise the forged signature of wills could not be criminal, the person in these cases being always—or very frequently—dead. As to the 2d, forgery did not consist in the fraud, or in the loss to the party whose name was imitated; because the mere forgery of a testimonial is sufficient to constitute the crime: and moreover, because in fact Millie might, had he been alive, been injured by the affixing of his name to this document.

Lord Mackenzie had no doubt of the act imputed to Henderson being capital forgery: it was the *attempt* to do injury that constituted the crime; and Henderson having made the attempt, in the belief that he should injure Millie, as well as make gain to himself, by imitating the name, had actually completed the crime. The prisoner's counsel had wished to separate the two parts of the indictment, and try those of murder and forgery separately; but he

never knew a case in which the two charges were so closely connected, or in which an establishment of the one charge afforded so much evidence of the truth of the other. He thought that it would be doing no service to public justice to separate them.—Objection over-ruled.

EVIDENCE.

Identifying various articles—and forms of process.

1. James Stark, procurator-fiscal of Fife, proved that Henderson in his presence adhered to two declarations emitted by him; and that certain articles mentioned in the inventories were shewn to the prisoner.

2. Henry Jackson, land-surveyor, Cupar, identified a plan of Whinny Park made out by him, and gave oath to its accuracy. He went over the premises in company with Rushfirth and Pratt, two of the witnesses, who shewed him certain spots noted in the plan. (1)

3. Catharine Millie (Mrs Smith, Moonzie), sister of Mr Millie, left his house only about 15 months ago; she had lived with him more than 30 years, and had therefore good opportunities of knowing the different articles of furniture or household goods in his possession. She here identified certain articles mentioned in the inventory No. I. as the property of her brother: these were Nos. 2, 14, 19, 20, 21, 25, 26, 27, and contents of 24.

4. Andrew Turnbull, bookseller, Auchtermuchty, an acquaintance of Mr Millie, identified Forsyth's Statutes (No. 18, Inventory I.) and a spy-glass, (No. 19, Inventory I.), which he had sold to him, and which he knew as his property.

5. David Bonthron, tailor, Letham, identified a coat of Mr Millie's which he had made for him. (No. 16, Inventory I.) The witness had preserved a shred of the cloth, which corresponded with that of the coat shewn him.

Finding the Body.

6. Henry Heggie, Lord Leven's coachman, on Saturday 24th July last had gone to Mr Millie's shop in the evening; and, looking around, saw part of the floor broken: he called some plasterers who were at hand, and they, with himself, dug up the loose earth till they came to the rock; found nothing: after this they went through the garden, and at one place perceived the ground soft; on digging about 8 inches below the surface they discovered a man's

(1) A copy of this plan has been engraved, and accompanies the view of Whinny Park. All the spots referred to in the evidence are marked and numbered on this plan.

hand sticking up. Immediately, without disturbing the spot farther, he went for the Sheriff; and returned with him and the officers.

7. Andrew Jameson, (2) Esq. Sheriff-Substitute of Fife, on receiving the information alluded to by last witness immediately repaired to Whinny Park; he had desired Dr Grace and Dr Malcolm to proceed before him; having found them there, the earth was removed from a body by torch-light under his direction: he afterwards examined the work shop minutely, and found there certain clothes which were acknowledged by the prisoner as his; a pair of jane trowsers among these (No. 18, Inventory II.) seemed to be stained by blood, but appeared to have been rubbed at some time after with earth to obliterate the (3) stains: beneath one of the looms, and on the treadles, the witness saw a quantity of blood: he saw little markings of blood also on a remnant of cloth which had been left attached to the warp of a web then in the loom. (4) Two hammers were found in his presence, on the smaller of which—on the handle and between the claws—there were spots of blood. This was on Saturday night: he returned on Tuesday 27th; when he found an iron beam-pin, on which were certain marks *apparently* of blood. Saw also a hat and snuff-box found at certain spots, (marked in the plan of the work-shop, Nos. 7 and 9); the snuff-box had distinct marks of blood on the lid: on the right side of the treadles he saw that slacked lime had been strewed over the floor; there was something under this which appeared to be blood. On the 28th, he returned to the place, and desired a person (James Honyman) to place himself on the loom in the same situation as if he had been working: in order that he might do this, the loom seat was sought, and was not found in its place; when discovered there were certain marks of blood observed on it, which had flowed across its breadth, on the right side, nearly above the blood which was on the floor: there were also marks of blood on the stretchers (or tempers) of the loom. The clothes brought out to him as those found on the body were here shown to Mr Jameson, (9 to 17, Inventory II.) and identified by him.

Cross-examined.---One of the hammers was found near the fire

(2) Mr Jameson also proved two declarations of the prisoner which were emitted in his presence; and several articles as having passed through his hands, or having been shewn by him to the prisoner.

(3) Lord Meadowbank thought one of the spots was decidedly blood; concerning the other there appeared less certainty.

(4) The rest of the web had been cut out. The yarn of the unfinished part remained on the loom.

(No. 6 in the plan,) and the other near the winding loom, (No. 8 in plan,) to the right. There were a pick and two spades found on the right side of the door. The first inspection was by candle-light, and the second by day-light: the blood appeared pretty fresh: a person casually entering the shop would hardly have observed the marks of blood; but one occupying the loom must. A table-cloth (No. 7, 11.) was shewn Mr Jameson, which had been applied to the (blood-marked) remnant on the loom in his presence, and found to correspond.

8. John Rushfirth, plasterer, was working at Melville House last summer. On going to Collessie on Saturday (24th June) he was called by Henry Heggie, and went with him to dig in Millie's shop at a place where the earth appeared to have been broken before; they found nothing. They were recommended, however, to search farther; and at a spot in the garden found a body. Saw blood on the treadles, and on the templers; below the loom there appeared to have been some water or other liquid spilt, which had caused a white mould to grow on the floor; saw blood on the smaller of the two hammers. Went with Mr Jackson, surveyor, to point out the various spots in the workshop mentioned in the evidence of Mr Jameson.

Witness had seen Henderson three times before; the last time between 7 and 8 on the evening of Saturday (26th June, day of the murder) at Collessie; Henderson was on his way to Whinny Park; he appeared to be agitated, and could not stand still, but *patted* backward and forward on the road. This did not strike witness at the time, but he thought of it after. He wanted his coat; had a hairy cap, and a pair of trowsers; (not the jane trowsers, No. 18., inventory H., stained with blood.)

Cross-examined.—Was not so well acquainted with Henderson as to say whether this way of *patting* about was usual with him or not; but did not see him exhibit the same manner on the two former occasions he had met with him.

9. David Heggie, weaver, Collessie, was present at the disinterment, and assisted in carrying in the corpse; on seeing it in the light he knew it immediately to be Millie's body. Before it was disinterred Dr Malcolm had asked if any of the spectators recollected what kind of waistcoat Millie usually wore; on which witness answered it was greenish: the waistcoat on the body was found to be green on being examined. Witness knew Henderson's jane trowsers by a rent, and saw him wearing them on the Thursday (24th June) before Millie was missing. Saw Henderson twice after Millie was missing, both times dressed, not in jane trowsers, but in black clothes: on one of these times (the Thursday before the body was discovered) asked him how he came by so much money; he answered that he had received £6 of wages from

his master some days before he went away to Edinburgh, and that his own father had given him three: he said also that he expected his master soon home; and that he had got a letter directing him what pattern of a web to work: the table-cloth (No. 7, II.) and remnant (those spotted with blood) corresponded, in being wrought of the same breadth, of the same yarn, and in the same reed; but the pattern was different. He thought the table-cloth had been cut away from the remnant.

Cross-examined.—Said to Henderson on Thursday (22d July), in Mr Christie's presence, "What is this you have been about? it is reported in the village that you have spent £9 in Auchtermuchty, independent of £4 in gig hires?" He answered it was a lie. Witness then told him that it was reported that he had murdered his master and buried him below an apple tree in his own yard (garden). Witness answered "you will soon see to that, as Millie will soon be home." Witness said "I have a thought of going to search the place; prisoner answered "O! that is very right; you had better go with me." This occurred in the forenoon: witness spoke something in order to try him, about his master being come—saying that he had heard that his master was come, or words to that purpose, and that if he had stolen any thing he had as well *cut his stick* (5); if not, he had better go home and mind his work. He said he was going home for that purpose; but that he could not work before, not knowing what pattern to use. Witness thinks that he bade prisoner go and inform Millie's relations in Strathmiglo concerning his long absence. Henderson had not (as witness recollects) previously said any thing about giving this information himself.

Cross-examined.—Witness had seen Henderson 12 or 13 times before: he had a stupid, bustling manner, *could not stand still*, or look one in the face. Witness was present when the seat of the loom was found; there were sprinkles of blood on it which appeared to have fallen from above and streamed down on both sides.

Examination of the Body.

10. Dr Grace went to Whinny Park on Saturday 26th July at the desire of the Sheriff; and was present at the exhumation of a body, which he afterwards examined, with Dr Malcolm; had made out with him a medical report---which was read in Court. (See pages 34 and 35.) Saw two hammers (No. 5, II.) which he examined next day in Mr Jameson's presence; (they were produced); discovered blood on the smaller of the two:---such a hammer was perfectly capable of inflicting the wounds. Saw marks of blood on

(5) There was a laugh in court at this expression, in which Henderson joined.

a remnant of cloth in the loom, on the stretchers, and on the treadles: the blood appeared to have dried, and attempts to have been made at rubbing it out. Saw lime on the floor, but no mould: did not think that the sprinkling of lime alone on the floor would have produced mould: blood would. Thinks the smaller mark on the trowsers (that noted by Lord Meadowbank) to be decidedly blood: but has not made any chemical experiment to ascertain it by that means. Thinks the marks shown him on *Millie*'s clothes were blood.

Cross-examined.---Could not say decidedly whether Millie was a muscular man or not, the body was so much swollen. His impression on seeing the body was, that it had been dead 4 or 5 weeks: but from the number of circumstances on which the putrefactive process depends, it was impossible decidedly to say how long. The Counsel asked, if there were not diseases which might cause death without previous emaciation; witness answered "certainly:" on which Lord Meadowbank asked, if witness had ever heard of a man dying of a fractured skull, without external violence.

Thinks there could be no difficulty in distinguishing between a stain of blood and one of wine.

The injuries were such as to have caused immediate death: the person could have made no resistance. Did not dissect the body, which he considered unnecessary, putrescence being so far advanced that it was impossible to distinguish *post mortem* changes from the marks of disease.

11. Dr Malcolm, surgeon, had attended Mr Millie, who was very liable to hemorhoids: had once operated on him for fistula. Saw a body exhumed, and found on it marks peculiar to that disease; did not see any marks of the wound made in the operation he had performed: but knew that in a case of operation on the bladder, no cicatrix could be discovered after a time: perhaps the membranous parts of the body did not long retain marks of cicatrization. On the whole, however, he was satisfied that the body exhumed was that of James Millie.

Mr Millie's disappearance.

12. Elizabeth Blyth, a little girl about 10 years old: knew James Millie, to whom she used to carry milk daily. Saw him last on the 26th June about 8 in the morning: the milk was that day taken from her in the shop by Henderson, who said James was at St Andrews, and would be home that night. When she was going out, she met Millie coming in at the gate of the garden. He asked what his weekly bill was for milk, and told her to bring it with her in the afternoon when she brought his Sabbath's milk. Millie was at this time in his working clothes. When she went at three o'clock she saw Henderson going *yont* to Monimail, (on a road at right angles to the foot path on which she was): she proceeded to the

house, and found the doors all locked. She returned about 8 o'clock, when she found that the garden gate was shut by a *muckle nail*, so that she could not open it: Millie did not use to lock it in this way, but with a *pin* (peg) made for the purpose. Henderson next morning about 9 o'clock came to her father's for the milk. Recollected the day from its being the last on which she had taken milk to Millie: and that on which he was first missed.

13. Mrs Blyth (the girl's mother) saw Henderson at her house on the Sunday mentioned by last witness. He came and told her to send no more milk till she received farther orders, as Millie was going to Edinburgh next morning to *raise the law* on Lord Leven: and he himself was going to Dunfermline. On the first Sunday he was dressed in a suit of clothes of a grey (jane or) moleskin: he called again on Sunday week.

Cross-examined.—Nothing struck her as extraordinary in Henderson's manner on Sunday (27th July). Saw him a fortnight after and asked if his master was come yet; he said "No." "I said," added witness, "that I thought James Millie was undoubtedly murdered, or that something had befallen him, he was so long away. He held down his head and said some *laigh word* which she did not hear; she does not think he laughed. Never heard any thing *about* him—or *to* (against) him—while he lived at Whinny Park.

14. Elizabeth Chalmers (Mrs Balfour) wife of Thomas Balfour, blacksmith, Monimail, lives in the nearest house to Millie's on the road eastwards to Monimail and Letham. Henderson was never in her house farther than the door: he came on Saturday the 26th June, and said that James Millie was away to Cupar, where he was to remain all night—and was to go off on Monday to Edinburgh. He gave no reason for telling her these things; and ran off immediately, appearing to be in a great hurry. Saw him afterwards several times and asked if there was any word of Millie coming home: he said "No." She received a message from Henderson. by her herd girl (Elizabeth Dalgleish), on the Saturday on which the body was found.

Cross-examined.—Prisoner was generally in a hurry, and had a confused sort of manner.

17. William Wallace, vintner in Letham, about a mile from Whinny Park, saw Henderson in his house on Saturday the 26th June about half-past three: noticed particularly the hour, from the village cows going out at that time to graze. Henderson called for a dram; witness saw him very much agitated, and his haad shaking. He accounted for this by saying that he was in the horrors—that is, had been drunk overnight, and felt the effects of it still. Prisoner said his master was going off to Edinburgh on Monday.

Cross-examined.—Prisoner did not drink more than half a glass; called also for tea from Mrs Wallace, after drinking which he appeared to be more composed.

18. Thomas Greig, head gardener at Melville, knew the late James Millie, who was in the habit of subscribing for the *Fife Herald* with the lads in Melville garden; he was in the habit of bringing the paper to them on Sunday; but on Sunday 27th June he did not come, and prisoner came in his stead, who said to Mrs Greig (in witness's presence) that Mr Millie was busy at home, and was going next day to Edinburgh. Saw Henderson again on 4th July, who came to ask if the newspaper was come to witness's —as he himself had been at Dunfermline; he said his master was still away, but that he expected him home on the Monday. He was dressed in black the second time: had been shabbily dressed in working clothes, of fustian, before this; on which witness said "your master has surely been improving you much." Had a timid restless manner at all times. Witness observed on the Sunday on which he brought the newspaper nothing particular.

Henderson's manner of life after Millie's disappearance.

19. David Ford, a weaver in Auchtermuchty, saw Henderson in his work-shop on Friday the 25th June, who said he had come to buy a suit of clothes; went with him to Mr Paton's shop, where he bought a whole suit, and laid out nearly £4. Witness afterwards saw prisoner give directions to a tailor to get the clothes ready by Monday. Prisoner, on being asked how he got so much money, said he had got £5 from Mr Arnot of Chapel for working a web, and £1 additional as premium or bet for finishing it quickly. The reason he gave for wishing his clothes finished on Monday, was, that he intended going to Dunfermline, whither he wished witness to accompany him. They went afterwards and had a good dram together: they parted about three in the morning: prisoner was not at that time drunk, and there was little alteration in his manner of speech: witness went about a mile to convoy him home. Prisoner had promised to come to pay the making of his clothes on Saturday, which turned out rainy: but he came on Monday, got the clothes, and purchased some other articles, shoes, stockings, gallows, &c.; he had a watch, which he said he had purchased from Millie, or some other person, for 35s.: witness had never seen him have a watch before. They then went together and hired a gig to go to Dunfermline; where they remained till Saturday morning. Has seen in prisoner's company a girl called Barrowman, at the old inn, kept by Mr Short, Dunfermline. Prisoner told witness he had given this girl a breast-pin, (No. 27, Inventory I. and identified as Millie's), and said that he had *purchased it* for 7s. 6d.—Witness saw also in prisoner's possession a Bible (No. 25, I.), which

he said he had *bought very cheap at* Cupar one day at an auction, *when on the ramble*, (drinking). He had with him on Friday night five keys, which he said were the keys of the house: saying, as a reason for his having them in his charge, that Millie had gone to Cupar to consult some men of business on a law-plea which he was going to *raise* on Lord Leven. He would not stay to sleep with witness, saying that be had promised to let in two men at five o'clock in the morning, to do some plain weaving-work, and that he would betray no man's trust, and was determined not to act like Judas. On Monday he had only one large and two small keys: the large key he gave to witness to keep. On the Friday, when he took the keys out of his pocket, he gave the large one to witness to keep: the others he took to Dunfermline and shewed to his parents. Said that Millie was to be home on the 5th; but that he was such a queer sort of body there was no saying but he might come sooner. At Dunfermline they lived, except two nights, at Henderson's fathers; these two nights prisoner was treating the two girls, Barrowman and Cooper. They returned on foot on Saturday (3d), and that night Henderson, being fatigued and his feet sore, slept with witness: on Sunday prisoner returned to Whinny Park; but came back again to Auchtermuchty in his working dress on Monday, and slept in witness's house that night. Witness accompanied him part of the way to Whinny Park on Tuesday morning; and saw him again on Wednesday morning in bed in a Mr Muckarsie's, where the prisoner had sent for witness to give *him his morning*. Witness and his brother convoyed him again so far on his way to Whinny Park, and agreed to remain at Trafalgar Inn till Henderson should proceed to Whinny Park to get a pair of breeches he had promised to send his brother at Dunfermline: they got tired waiting on him there and went on to look for him at Whinny Park; they found the doors there locked; but on proceeding farther saw him washing his face in a burn at Monimail. He went with them to Whinny Park, got the breeches, and proceeded to Trafalgar Inn, where they had some more whisky: when they left this place Henderson went on faster than they did, intending to take the breeches to the carrier's. They did not see him again till Sunday, when he told them he had been busy working since Wednesday; and had been to see (6) Millie's sister in Strathmiglo. On Friday next (9th) met him once more, and saw him set off with a woman in a gig. Next week prisoner came to his shop window and shewed a key bugle and trumpet, which he said he had redeemed, having left them in pledge with the Dunfermline band, to which he was a subscriber, and had been in debt: he said at this time that he had received a letter from his master with di-

(6) He had never been there.

rections as to his work—he was to get no more wages for going idle—and must therefore be busy.

Cross-examined.—On Friday evening (25th June) when he saw Henderson he had a bottle of wine with him in Walter Sibbald's in Auchtermuchty; this was the first drink they had had except a dram from the man who sold the clothes. They had then another bottle of wine; and afterwards had two more from the head inn; Henderson was that day giving drink to any body that would take it: he paid 2s. 6d. or 3s. for each bottle of wine. Witness was only once at Whinny Park with prisoner on Wednesday (7th) about 5 or 10 minutes; was not in the shop. There were with them then a brother of witness and a *Collessie chield*—of the name of Sheagh. Prisoner left them to dress, and went out of the kitchen, (7) along a trance to some other room in order to dress himself. The key was in the house door, but the shop door was shut (locked).

20. Jean Barrowman, Dunfermline, (a tall good-looking girl): the prisoner sent for her to meet him at David Short's house in Dunfermline (on the week after 26th June), where she received a brooch and a box (26, 29, inventory I.) It had an inscription, (8) but as she could not read, she did not know what it was: he told her that he had got it as a keepsake. She said, if he had got it in a keepsake, he ought to keep it, then. He said, "O, just take it." She received no money from him.

Blood on Henderson's Clothes, &c.

(21) Isobell Crombie or Brebner was in the habit of washing Henderson's shirts: for a long time he had only two shirts of unbleached cotton. Received these two shirts from him the week after Millie was missing: there were marks of blood on them; one was a splarge below the shoulder; another a jap below the opening of the breast. Is very sure it was blood, as it turned black in boiling: she has frequently washed clothes stained with blood before, and knows its appearance well. On the same week, she received from him a coarse linen shirt, which she had never seen him have before; it was a little worn. On Friday eight days before the body was found, (the 16th) he came running into her house, and said he was going to Kettle market, and wanted a starched shirt; she offered him the two yellow cotton shirts, but he would scarcely take them away. On the week Millie was found, he brought two other coarse linen shirts similar to the former. Wished him to take away his cotton shirts, and asked him what had stained them; he said it was some strong Dunfermline shrub. He took them away apparently with much reluctance.

(7). No. 1 In the ground plan of the house.

(8) For this inscription, see page 16.

Cross-examined.—When Henderson said it was shrub, she answered, if he had called it wine, that might account for its not easily washing out; but wine was of a different colour. If she had put it among cold water it might have come sooner out; but she kept it some days, and put it among the *graith* (soap suds): and then she nrst discovered it. Henderson was very quiet looking: does not know if he drinks; and only came to know him from her having been employed by his master in winding.

By the Court.—Was in the work-shop about ten days before Millie was missing: at that time all the looms were empty, except the *big one*, (that on the left hand—under which the blood was found.) The web in the loom consisted of very large table cloths.

By a Juryman.—Witness was not in the habit of washing Millie's linen. There was no mark on the linen shirts she received from the prisoner, nor any appearance of marks having been picked out.

Henderson Selling Millie's Goods, and giving false accounts of himself.

22. Christian Donald, (Mrs Rollo,) Lindores, saw prisoner in her house between 3 weeks or a fortnight before she heard of Mr Millie being amissing: he offered unbleached towelling and table-cloths for sale; which she declined purchasing. A man of the name of Lyal was present, who said no body in this neighbourhood wrought any work of that kind except Millie; adding that he had a Dunfermline lad with him, and asking if prisoner knew him; he made little or no answer: and on hearing the questions, packed up quickly and walked off. He put up his things in such a hurry that he left a spindle of yarn on her table, which Lyall took up, and witness ran after prisoner to deliver it. On her return she found a girl (Mary Melville) in the house on some errand, who on going out at the door immediately after, found 6 silver tea spoons and a pair of silver sugar tongs. He returned in eight or ten days, and said he had lost some spoons, which he had only missed on reaching Auchtermuchty; she directed him to the girl, Mary Melville.

23. Mary Melville (about 15) found the silver tea-spoons opposite Mrs Rollo's door, on a Monday in the month of June; they were tied up in a piece of blue paper: she took them home, and delivered them afterwards to Henderson, who said they were his, and gave her 2s. for restoring them.

24. Andrew Williamson, grocer, Newburgh, saw the prisoner in the beginning of July; at that time he was going about selling unbleached table-cloths, and pretended he came from Dunfermline. Witness bought one (No. 2, Inventory I.); on opening it out

he found some spots of blood; (9) on being challenged on this subject, prisoner said he had laid it down in a flesher's shop (Matthew Speedie's) upon something bloody.

Cross-examined.—Could not ascertain whether the blood was newly dropt or not; it had a fresher appearance then than it has now.

By the Court.—Witness understood prisoner to mean that he had weaved the cloths about Dunfermline.

25. Matthew Speedie saw the prisoner on the 23d July, when he had some unbleached table-cloths for sale; witness bought one. Prisoner never laid down any of the table-cloths in his shop where they could have been bloodied. (10)

Cross-examined.—Does not recollect whether he was from home on the 6th; his wife and servant (James Marshall) take care of the shop in his absence. Witness lives towards east end, and Williamson towards west end, of Newburgh: cattle are killed at places between the two.

26. George Anderson saw the prisoner on or about the 6th of July; he was offering yarn and table-cloths for sale. Witness purchased some yarn and one table-cloth: (the yarn was produced in court, No. 17—the table-cloth, No. 3—and a bag containing the yarn, No. 15—Inventory I.) After hearing of Mr Millie's death examined the bag (which had been left only by mistake), and found Mr Millie's name on it.

By the Court.—Prisoner said he came from Dunfermline, and had bartered at Perth some table-cloths for the yarn: people usually come hawking table-cloths from Dunfermline, and witness thought him one of them.

27. Catharine Clunic (Mrs Beveridge), Newburgh, saw the prisoner on 14th July, when she purchased some towels for herself, and a table-cloth (No. 7, inventory I.) for her daughter: Effy Patterson (Mr Dun's servant) also purchased some towels (No. 8, inventory I.) All these things were taken to Cupar, and delivered up to the Sheriff.

The Forgery.

28. R. Taylor, jun. saw prisoner on a Tuesday about the middle of July, who came enquiring after Mr Taylor, sen. (Lord Leven's factor). Mr Taylor, was not at home; and prisoner went away that day without saying what he wanted. On Wednesday he came

(9) This was exhibited in Court, and the marks of blood appeared very distinct.

(10) The bloody cloth had been sold to Mr Williamson on the 6th, and of course before he had ever been in Mr Speedie's shop.

and brought a receipt on the Commercial Bank, in favour of the Earl of Leven and Melville, which he shewed to witness, and which witness now identified in Court.

29. Mr Taylor saw the prisoner on the first Thursday after the 10th July (15th), when witness was called by his son to prisoner, who wanted to see him concerning the receipt mentioned above. It was a bank receipt in favour of the Earl of Leven and Melville, which had been handed over to James Millie, about two years before, by Lord Leven in Mr Taylor's presence: witness asked how prisoner had come by it; and he answered that Millie was then in Edinburgh, and had employed him to get the money: he then enquired whether witness, as factor for Lord Leven, could pay the amount: witness said prisoner would get the money from the Bank the moment Millie's name was put on the back of the receipt.

30. Mr W. Walker, teller in the Commercial Bank Office, Cupar, remembered having seen the deposit receipt, and having paid it to some person. Mr Edgar was present on Friday, 16th July, when witness paid it.

31. Robert Edgar had seen the deposit receipt, being brought to the Commercial Bank by the prisoner on the 16th July, at which time the money was paid to him.

Cross-examined.—Would have paid the receipt although Millie's name had not been on the back of it.

Henderson's Journey to Edinburgh.

32. James Watt, post-boy to Mr Mitchelson, innkeeper, Auchtermuchty, took Henderson and Ford to Auchterderran one day: afterwards (still 16th July) took him and Bell Chambers to Dunfermline, where they remained about an hour and a half, and where Henderson left Chambers: he then took Henderson on to Queensferry in the gig, which they left there; and went forwards together in the mail to Edinburgh on Saturday. When there Henderson went to Robertson's shop and bought a key-bugle and trumpet, for which he paid £4 or 4 guineas. There was another house in Prince's Street—a public-house—to which he went; and where he wrote a letter. This letter he afterwards put into the post-office; saying, as witnessed believed, that it was for Fife. They returned to Queensferry from the Chain Pier, where they again took the gig and went to Dunfermline; they stopt there all Saturday night, at the "Old Inn;" and returned with Bell Chambers to Auchtermuchty on Sunday 18th. Witness got 6s. 6d. in money, from Henderson, besides the gig hire and payment of all his expences. Henderson appeared very restless and unsettled the whole time; being continually out and in to public-houses.

By Court.—Bell Chambers and prisoner only talked about the journey and common matters while in the gig: they did not say any thing about Millie.

Pretended Letter from Millie—Title-deeds of Whinny Park.

33. George Muckarsie, innkeeper, Auchtermuchty. On Monday (the 19th July,) (11) the prisoner came into witness's house, who went to Collessie with him: prisoner said he expected a letter that day from his master: this was in the forenoon: he then called at Mr Lawson's shop in Collessie, and brought out a letter in his hand, (which he said was that which he expected,) and read its contents to witness. It purported to he from Mr Millie, and to contain certain directions about the kind or pattern of work prisoner was to be employed at during his master's absence: it contained also directions for Henderson to forward the title-deeds of Whinny Park to Mr Millie, at Mr Robertson's, music seller, 47, Prince's Street. Prisoner then went back to Whinny Park, and returned with a bundle, which, he said, contained the papers Mr Millie wished to have forwarded to him: he then went into Mr Lawson's shop, Collessie, to direct the papers, in order, as he said, that no time might be lost on his part. Witness saw prisoner again that night, when he said he had got every thing right—and had received good news from Mr Millie. Witness asked to see the letter; and prisoner answered that he had torn it at the door, but that if he liked to go out he might see the pieces there. Saw Henderson again on the Thursday morning (22d July) before the body was found, and told him that he ought to go home now and work, for that he had been long enough *on the bawl*, and his master might return and find fault with him; Henderson answered, *with a kind of laugh, that perhaps Millie had been Burked in Edinburgh.* For 8 or 10 days before the body was discovered, he was frequently in witness's house, to drink a gill in passing; but only remained a few minutes each time.

34. Helen Scott (Mrs Lawson, Collessie,) remembered a letter with a post mark being brought to her house addressed to Henderson, and directed to the care of her husband (Robert Lawson, grocer). It was left by the Cupar and Auchtermuchty post-man, at Trafalgar Inn, (about a quarter of a mile distant), and was brought by a neighbour woman to witness's house on Monday (19th). Henderson arrived just as witness had laid down the postage to pay the letter, and he then paid it himself. Whenever he came in he asked if witness had received any letter to him from Mr Millie: he opened it immediately, and read it in her presence. It read thus—"John, you will begin your work with a rose and sprig, large pattern: you will send the papers that is lying in the east room, rolled up by themselves; and direct to me at Mr Robertson's, 47, Princes

(11) Henderson left Edinburgh on Saturday the 17th,—this was the next Monday.

Street, and so doing you will oblige James Milley." There was nothing in it about Mr Millie's return. He immediately folded up the letter and left witness's house: this was in the forenoon. In the afternoon Henderson called again with a parcel, which he said contained the papers Mr Millie wanted. He asked for a sheet of paper, pen and ink, and wrote a letter. He also wrote an address for the parcel—"Mr James Milley, care of Mr Robertson, 47, Princes Street, Edinburgh"—laid the letter on the cover, then folded another cover of blotting paper over the parcel, and fixed the direction over all: he said he would take the parcel to Trafalgar Inn to be forwarded to Edinburgh. She (witness) afterwards saw the parcel in the possession of the Sheriff, and recognized it. The cover was a good deal worn, but the direction and the cord were the same.

Cross-examined.—Henderson now and then said that he thought sometimes of informing Millie's friends concerning his long absence; witness said that she thought he had better do so: he made no reply to this. This might be about a week before the receipt of the letter.

By the Court.—He never brought any table-cloths or yarn to her house for sale. Collessie, where she lives, is about half a mile from Whinny Park.

35. Mr Forbes, clerk of Mr M'Nab's coach establishment, Edinburgh, received at the coach office a parcel by one of the Fife coaches, addressed to Mr Milley, care of Mr Robertson, Prince's Street.

36. Mr Robertson received, on the evening of the 20th July, a parcel wrapped up in blotting paper: it was much worn. He afterwards opened it, in apprehension of its delivery to him being from some mistake of names. There was an old letter and some parchments, &c. within, which, however, he did not examine particularly. After this, he detained the parcel for a time, till it was delivered by him, to a Sheriff-officer, (John Robertson), as the authorities directed.

By the Court.—No one ever came to enquire for the parcel, representing himself to be Millie. Witness recollected selling a key-bugle and a trumpet to a man, (whom he thinks to be the prisoner), and who had a boy along with him: witness recongnised James Watt, (Mr Mitchelson's post-boy, who went with Henderson in the gig), as the boy he had seen with the prisoner. While they were in witness's shop, the man (prisoner) seemed all the time very anxious to be gone, and left the shop before the musical instruments he had purchased could be got ready, sending back the boy to fetch them.

37. John Robertson, sheriff-officer, went to Mr Robertson's shop,

the music seller, on Sunday 25th July, and got the parcel. It contained a letter addressed to "James Milley," &c., the hand-writing of which name was considered by the court as bearing a great resemblance to that of the same name in the forged indorsation of the receipt paid to Henderson.

Henderson carrying off goods from Whinny Park by night.

38. Robert Heggie, labourer, Newburgh, saw the prisoner about the 6th July, hawking Dunfermline goods through Newburgh: he said he came from Dunfermline and brought the goods with him. Witness's wife bought a table-cloth from him, (No. 9, I.) with a thistle pattern. Witness saw him again about the 22d July, when he asked witness to get a carter to fetch some goods belonging to him, and which were lying *Monimail-way*, (near Monimail): Witness recommended Brough, a carter, for this purpose, who went with prisoner accordingly: and returned that night with some goods in the cart. Henderson breakfasted with them, (witness's family); and gave his (witness's) daughter a piece of hack-a-back, (No. 13, Inventory I.) which he took out of a bag containing a quantity of other articles: Prisoner then went away elsewhere to sell his goods as he said. He had at one of these times some books, a blue cloth coat, a weather-glass, and a spy-glass, (all which witness, except the coat, identified, and which were Millie's). The coat prisoner sold to Brough, the carter.

39. John Brough saw Henderson on Thursday 22d July, who wanted him to go with a cart to Monimail for some goods. They arrived at a house near that place about 12 o'clock at night; prisoner said the people knew he was coming, and that the key was to be lying somewhere at the door: on searching, he did not seem at first to find it, and said the maid might have gone out and have left the key in the door: on which he put up his hand, and finding the key somewhere, opened the door: witness did not see him take the key out of his pocket, and did not know where he got it. There was a fire burning; and prisoner took a lamp from the chimney-piece, and lighted it with a *spunk*, (match): he then looked into the kitchen bed, and said the maid was out, perhaps she was among *the lads*. He said the goods were up stairs; and that he and witness would go up and fetch them, without disturbing the people in the house. They found a quantity of unbleached cloth on the floor of the room, and put it into a bag. Prisoner went *ben* into an inner room, and said he was going to see what they (the people of the house) were doing ben the house: he then returned and said the goods they had got was all he intended to take. They went off directly for Newburgh, and left the things in Robert Heggie's, Henderson saying he was going to sell them; witness saw him next day, and bought a coat (No. 13, Inventory I.) from him.

By a Juryman.—When you went to this house, in what state was the fire? It was only a red gloss, and nearly burnt out; it was a coal fire, which had been *happit up wi' ace.*

40. James Livingston, merchant Newburgh, bought a table cloth from prisoner, (No. 23, Inventory 1,) on the Friday 22d July. This was the table-cloth which one of the witnesses identified as corresponding with the remnant in the loom, and which had bloody spots. Prisoner offered also some books for sale which he said were "Law Statutes."

41. Robert Ford, cooper, Newburgh, bought a table-cloth, (No. 6, Inventory I,) from prisoner, on the 23d July, who also offered a book for sale called "Forsyth Statutes."

42. Gavin Stewart, writer, Newburgh, bought some books from prisoner on the morning of the 24th July. Prisoner asked if he could sell a property to which he had no right in his own person, but of which he had the title-deeds; he said he would return and bring these next week. Witness said he could not sell such a property; and recommended him to go to some man of business in Dunfermline, where he lived.

Henderson alleging that Millie had returned from Edinburgh, and was gone to Cupar.

43. Bell Dalgliesh (about 10 years old) was herd-lassie to Mrs Balfour in Monimail; she was sent by Henderson with a message to her mistress on Saturday morning, the day on which the body was taken up. The message was, "to tell Mrs Balfour that James Millie came home the night before," (the night before the discovery).

44. David Philp, carter in Milton of Balgonie, saw the prisoner in Millie's house, and accompanied him from thence to Mrs Lawson's, where he said he got a letter. Saw him afterwards, on the Saturday of the discovery, when he said his master had come home the night before, and had now gone to Cupar to shew some papers to certain men of business there.

45. Jean Millie (Mrs Barclay), Strathmiglo, went to Whinny Park on Saturday the 24th July, to look after her brother. She found John Henderson there, on the outside of the garden; she asked if her brother had come home, and he said he had, but had gone off between six and seven o'clock that morning to Cupar; she is the oldest sister, and is heir, with the other sister, to the moveables.

Henderson's Declarations.

Henderson's first declaration (made on the 25th July) was here read, which states that he had seen Millie set out on the road to Edinburgh on Saturday the 26th June; that he had had a letter

from him there, with directions as to what pattern he should work. That a person came to Whinny Park, and told him he had seen Millie in Edinburgh. That he had never seen Millie since he saw him set out for Edinburgh; and that the letter he received was really from Millie. That Millie had taken with him some of the cloth which was amissing; and that a part of it had been sent by Millie's direction to St Andrews. He denied having said to Mrs Barclay that Millie was returned; or that he recollected having said that he was gone to Edinburgh about a law plea. Acknowledged having received the amount of the deposit receipt from the Bank; but said he forwarded the money in the parcel directed to Mr Millie at Edinburgh. Said he never knew that Mr Millie was dead till the officer who apprehended him told him so. Denied having disposed of any of his master's yarn in his absence.

In the second declaration he acknowledged that the direction of the parcel sen tto Edinburgh was his writing; but said that he did not know what the papers in it were, but sent them merely as he found them, according to Millie's directions; and said that the letter he sent mentioned the forwarding of the money to Millie. Denied having, while in Edinburgh, put a letter into the post-office for Fife. Said he received the books, weather-glass, silver-spoons, &c. in barter for table-cloths in Perth; and had never seen them in Whinny Park: said he received the table-cloths in part from an acquaintance in Dunfermline—whose name he declined mentioning, as he was *behind in the world*—and partly had received them from Millie as wages. Said he received the blue coat in barter from a person near Newburgh. Said that he knew nothing of Millie's death.

EXCULPATORY EVIDENCE.

Mr Deas had no evidence to offer; except that he wished to ask a few questions of the officer who apprehended the prisoner.

John Kennedy, sheriff-officer, Cupar, apprehended the prisoner on the 25th July at Dunfermline. Prisoner made no objection to to go with him; but was reluctant to walk through the street, and wished a gig brought to the place where he then was. Seemed a little agitated when the warrant for his apprehension on the charge of murder was read to him, but soon recovered, and said he was as innocent as the witness. He appeared calm the whole way; and behaved very well in jail.

Address of the Public Prosecutor.

Mr Smith, the public prosecutor, thought that, considering the evidence which had been produced, the Jury could have no difficulty in finding the prisoner guilty. There were three charges, all of them flagrant; but one of these was of surpassing enormity, both in the eyes of God and of man. It was said, that "Who so shed-

deth man's blood by man shall his blood be shed :" and the present case presented as fearful a violation of that sanction as had ever come before a Jury. There had been some difficulty, from the retired habits of the victim, of proving some of the property as his: but his sister had happily been able to identify a sufficient number of articles, to shew that the prisoner had been guilty of the basest robbery. He comes to his master in a state of poverty and wretchedness—having hardly two shirts—and immediately after the death of that industrious man, he is found possessed of heaps of yarn, tablecloths, clothes, and books, of which, to say the least, he can give no account, and many of which are proved to be his master's. Then he applies for payment of a deposit receipt, belonging to the same person, and alleges that he had received it from him, and means to send the amount to him at Edinburgh: but the parcel in which he pretends to have sent it is found, and it contains no money; had he besides got the receipt from his master, he would have known how to have applied for payment in a regular manner; whereas, it appears that he went to the wrong person for that purpose, and knew not in fact how to proceed: in order, moreover, to procure payment he affixes Millie's name to the receipt, thus adding forgery to theft. But the principal object sought by proving these circumstances is not the mere facts of the theft and forgery, but to shew that these afford the most decisive evidence of the higher charge of murder. It is proved to you that Millie and the prisoner lived together in a lonely house; that the latter is missing on a certain day; and that his body is afterwards found in his own garden: circumstances are adduced which shew you that he must have been murdered in the work-shop: now who besides Henderson or himself had access to this shop without that person knowing of it? Henderson indeed says that his master had gone to Edinburgh; and it may be supposed means you to believe was murdered there: but who could have brought the body from Edinburgh to Whinny Park to bury it? And it is evident that Millie had not come back and been murdered in his own house, for he could have got no admission there, as it is proven to you that during the interval of Henderson's absence (when only such an occurrence could have taken place) that that person had with him the keys of the house; and continued shewing them as marks of his master's confidence in him. Again had the murder been committed by a stranger, what possible motive could such stranger have had for it? Millie is a peaceable person who quarrels with no one, and has no enemies: but granting even this, had such a person done the murder, what motive could he have had for concealing the body? Would he have hid the body, and run away, in order to leave the fruit of his crimes to the prisoner? Gentlemen it is improbable—impossible. Again, returning for a moment to the prisoner's story of Millie's

departure for Edinburgh, what was his conduct in the interval? what does he do? The very day after Millie's departure he is seen wearing a brooch which belonged to that person, has possession of his Bible, and gives to the girl Barrowman his snuff-box: he began instantly to apply the property of his master to his own purposes—to sell or to give it away—a conduct which shews how clearly he was satisfied that his master could never return to challenge him. He proceeds at the same time to weave a tissue of lies around himself to protect his conduct from immediate inquiry: gives out that he receives a letter from his master—that directions are sent him as to his work—that papers are to be forwarded to Edinburgh, to a person, gentlemen, who was at that time dead, and whose body, as the medical gentlemen have told you, was already far advanced in a state of putrefaction. Why should he have thus sedulously endeavoured to impress the neighbours with an idea that Millie was alive, if he was not conscious that he himself was the author of his death, and wished to profit by his crime? Nor did his lies end here; when his crime began to stare him in the face, and when he had as he feared exhausted the credulity of the neighbourhood, with the first story, he has another one ready. His master, he says, is now returned from Edinburgh—but has gone to Cupar—and this tale he circulates as widely as possible—sending messages to some, and telling it himself to others. These, gentlemen, are the general circumstances, which seem to fix the crime on the prisoner: but I now call your attention to one which clinches all the rest: all those parts of the dress which he wore on the day of Millie's disappearance, which can be found, are STAINED WITH BLOOD—some of them cannot be found, and no account is given by the prisoner of their disappearance. His shirt even is deeply marked with the record of murder, and no wonder that he shrinks at receiving back into his possession a memorial so burning; he tried indeed to smooth over his feelings—tried to laugh—when the washer-woman points out to him those stains, whose origin he must have known so well: but this only marks the callousness of a long acquaintance with crime, and a determination to conceal it. The table-cloths also which he carried for sale, are at once the witnesses of blood and robbery, and brought their deep stains before the prisoner, gentlemen, and before you, to afford conviction of his crimes, and satisfaction to justice. It has been attempted to insinuate that the blood on the cloths may have been from stains ornitracted in a flesher's shop: but the prisoner has not produced a tittle of evidence to that effect; and it is too important to his defence to have been neglected had it been to be found. Considering the evidence, I apprehend, gentlemen, that you can have no difficulty in coming to the conclusion, that the prisoner at the bar is guilty of the crimes libelled.

Address of th Prisoner's Counsel.

Mr Deas rose, with a feeling of considerable anxiety, to say the first word which had been heard this day in behalf of the unfortunate prisoner at the bar. Unfortunate he certainly was, even if innocent, while surrounded with a cloud of suspicion which, in every event, must darken all his future life; and doubly unfortunate if guilty—if marked with those plague spots of the soul which stain a crime so atrocious. It was needless, he hoped, for him to remind the Jury that the life of the prisoner depended upon their deliberations; and that on the events of one little hour, must hang what was to him dearer than all besides—the enjoyment of life—nay what, to to well thinking men, was dearer than even life itself, freedom from the charge of a horrible crime. The prisoner was yet a young man, his cheeks were ruddy with early health and vigour; yet his life was trembling in the balance of their thoughts; and, according as they decided, must he he thrown into the grave unblessed, unwept, and have his name, whilst there, trampled on in deep ignominy; or be set free to enjoy once more the society of his friends, and the happiness which God has assigned to youth and strength. I implore you, therefore, gentlemen of the Jury, to come to the consideration of his case with calmness and without prejudice. I am not ignorant how many circumstances there are in the case to excite your feelings: the person who has been murdered (for that he has been murdered by some one cannot be doubted) was a peaceful man, esteemed by his friends, and living in the bosom of a tranquil neighbourhood. Then, if the tale told on the other side be true, the deed is one of atrocity unparalleled, perpetrated by his own servant, in cold blood, without the excitement of revenge, anger, or passion, and for the mere and sordid gratification of the love of gain. The circumstances I have mentioned have necessarily given a deep interest to this case, and have surrounded the prisoner's situation with a host of prejudices: but even these have been heightened in the present instance to no ordinary excess by other causes: the press, gentlemen, to which we owe so much in general, has here ventured to overstep the boundaries of its province, and by circulating widely the whole circumstances, (or what are represented as such), of the crime, has rendered it almost impossible for the most upright Juryman to divest his mind of conclusions, which he ought never to form but in the Jury box, and from evidence submitted to him in Court. If such be the case with any of you, gentlemen, I beseech and implore you to throw aside all impressions, and all recollections which may have been so formed: and to come to the consideration of the case with no feeling but that of a determination to judge on the evidence you have heard this day. Now, as to the evidence, gentlemen, on

which you are thus to determine; it is, allow me to say, entirely indirect and circumstantial. The crime if committed, must have been committed where no eye saw it, and where, in consequence, no direct evidence could be produced. A body, then, having been found, you have three distinct objects of inquiry; 1st, has a murder certainly been committed?—has the death of the person found been the consequence of violence! 2d, Is the body that of the missing James Millie? 3d, Supposing the former two answered in the affirmative, by whom was the murder committed? It is of no consequence in this case, that the person suspected is seen near the spot where the body was found, because that spot was his usual residence, and his being there inferred no suspicion. Next, with regard to the time, it appears to me by no means legally proved, that the murder was committed at the time inferred from the evidence: might it not have happened during the week when Henderson was absent at Dunfermline? Is there any thing in all that has been brought forward to shew the contrary? A great deal has been said about the deceptions practised by Henderson, and it has been inferred that no motive could have prompted him to assign so many improbable reasons for his own conduct, or to speak of the motions of a man already dead, as if he were living, except the single one of he himself having committed the murder; but in the first place, it is by no means proved that he wrote the letter which is said to have come from his master at Edinburgh, and which is brought forward as the strongest of these practices of delusion which he is said to have used to withdraw suspicion from his crime; and in the next place, there are other reasons which afford as probable an explanation of his conduct as that of a desire to conceal a crime which he is not proved to have committed. May he not, gentlemen, have been himself the victim of some designing person, who told him (as he says in his declarations he was told) that Millie was in Edinburgh, and who may even have sent him letters from thence under Millie's name, desiring to obtain possession of the title-deeds, &c. which were, as you have seen, actually forwarded thither? or, which I rather believe, and which you will doubtless see reason to believe also, is not his whole conduct and all his deceptions perfectly explained by a motive of a very bad kind indeed, but which yet exculpates him from the fearful charge of murder? I mean his desire to possess himself of the property of a man who had gone away—and remained away—leaving the whole under his charge and at his disposal: I do not mean to deny, on his behalf, the charge of theft; but I think that his consciousness of being guilty of that crime entirely explains all that he said and did to account for his remaining about the premises of Whinny Park—his going with the carter at night—his quieting the suspicions of the

people as to his master's absence—and his pretending that the goods he sold were brought from a distance. But, gentlemen, it has been said that there were spots of blood found on his dress or the goods he sold; in one of the cases where this was observed, is not his own account of the reason perfectly satisfactory, that he had laid down the goods in a butcher's shop, and that there they had received accidental stains: he gave this explanation to the person to whom he sold the goods, and if that person then thought the explanation perfectly satisfactory, it does not appear, gentlemen, that we have now any substantial reason for doubting it: the flesher, Speedie, says the occurrence did not take place in his presence, but he does not say that it might not have taken place when he was absent from home. Nor is it likely, gentlemen, that Henderson, or any man, would, for the paltry consideration of a few shillings, have put into other hands, such a token of his own guilt, as a table-cloth stained with the blood of a fellow creature shed by himself. Then, as to the marks of blood on the prisoner's dress; there is nothing, gentlemen, to satisfy you that an inexperienced person might not have mistaken for blood stains arising from a very different cause: there are many substances which impart red stains, (as the washer-woman herself intimated): they might have been wine: and it has been proved that Henderson was drinking wine the night before: or they might have been *shrub*, as the prisoner himself said—or it might have been any thing—there is no certainty that it was blood: and if it had, what can explain the prisoner's carelessness in giving it into the hands of the washer-woman? his indifference, and even his smile, at her questions as to the cause of the stains? and his carelessness about receiving it back from her? Would a man, conscious that these stains were those of blood crying out against him, have either given them up so easily, treated a question concerning them with so much scorn, or have neglected an opportunity of getting them back into his possession? Again, gentlemen, a great deal has been founded on a certain perturbation thought to have been observed in the manner of Henderson about the time assigned as that of the murder: but what are the facts? Mr Wallace says that he observed his hand shaking; but a man's hand will become tremulous from any emotion whatever; from fear, or from anger; from love, or from hatred; and why then should one cause be so peremptorily assigned here? but is the rest of his behaviour like that of a man in any emotion of horror? he calls for spirits it is true; but how much of them does he drink? only, gentlemen, half a glass: and how is the tremulous motion of his hand stilled? by drinking a cup or two of tea. This, gentlemen, may be all explained well and easily, by supposing, as he himself says, and as has been proved to you, that he had been drinking the night before, and had not been in bed; at least not till after 3 o'clock in the morning.

It is not required of me, gentlemen, for the prisoner's defence, to shew that he is not the murderer: all that is necessary, is to shew you that there is no legal proof that he is? and of this I think from the observations I have made and shall make, on the evidence, you may be satisfied.

Consider, Gentlemen; what possible motive could the prisoner have for committing such a crime on a person who had taken him in houseless and pennyless; who had clothed, fed, and entertained him? Could any man, from the mere sordid love of gain, have raised his hand against such a benefactor? Could all the paltry lucre to be made by selling a few articles of unbleached linen through the country, exposed to every risk of detection, have induced any man in his senses to contrive such a deed! a deed which not only destroyed his benefactor, but threw himself out of employment, and made him infamous for ever. It would be necessary to shew a much stronger motive indeed for a crime so tremendous. And if he had done it, would he have done it in broad-day—in a house not very far removed from others—and exposed to the continual visits and messages of neighbours and their children. Would he not at least have chosen the night-time—a time at least, if not a place of secrecy? And supposing no other presumption of his innocence of this crime to exist, would it not be a strong circumstance, that he never shrinks at being charged with it? that he even offers to go with the person who makes this charge, to examine the spot where the body was said to be? and above all, could he, on being apprehended, and in the immediate prospect of being tried for his life, have preserved an appearance of coolness which struck even the officer: or could he have conversed with that person as he did, on indifferent matters, and on the appearance of the country, in his road to the Jail? It is almost altogether incredible, gentlemen; and I hope you will give the whole circumstances their due weight in the scale of evidence.

When you consider, gentlemen, how indirect in point of law the whole evidence is on which you are required to come to the conclusion of this prisoner's guilt, I cannot but implore you to avoid the slippery path on which juries frequently proceed, in trusting to circumstantial evidence. The whole that you have heard, gentlemen, amounts to nothing more than vague—or I shall say, strong—suspicion: but are the lives of the subjects of this kingdom to be sacrificed on suspicion? I trust not. Will any one of you say that it is absolutely certain that he committed the crime? may not some one unknown have done it? has it not happened in many cases of circumstantial evidence that the real culprit being unknown, suspicion has fallen on the individual against whom the greatest number of adverse circumstances conspired, to connect him with the crime? It is exactly because the true criminal has had the art to conceal himself that the public opinion fixes next on him who is

not the criminal, but who is placed in a situation most likely to be thought so: one circumstance rises up to confirm another; trifles in themselves indifferent, are combined with others which lead to more serious conclusions; and both together unite in confirming surmises which were nothing at first, but whose accumulated force swells at last in the eye of the public and a jury into undoubted certainty. The innocent man is convicted—and he suffers the penalties of a horrible crime. But in the course of years the real criminal—is haunted by remorse—is struck with horror on a death-bed—his day of retribution in fact is come—and he calls in his agony for some one to listen to the recital of his enormities. The dark suspicions, misnamed proofs, which had overwhelmed the former victim, vanish—his innocence is acknowledged; but his fate is sealed: he has suffered death, and has fallen the victim of a series of accidental combinations—which were *not* evidence. It would be vain for me to detail cases of this kind: but let me say, gentlemen, and I say it as a matter of public notoriety—that it is not many years since a jury, sitting in that very box, convicted a woman from Montrose of the crime of murder on circumstantiate evidence—and she suffered a death of shame in consequence of their verdict: but another person has since, on his death-bed, confessed the crime—and allowed her innocence. (12) And in this case also, almost the whole conclusions, allow me to say, are founded on a combined series of accidents. Accidental combination is confessedly the bane of philosophy and of science; and is it not dreadful where the life of a human being is made to depend on a matter so fallacious? What a series of little circumstances are here adduced to take away the life of this prisoner—some of them real—some of them accidental—some merely imaginary:—you have drops of blood on a table-cloth—drops of blood on a shirt—the trembling of a man's hand—and you are on these, asked to give up into the hands of the common executioner a man in the vigour of youth. Do not, I entreat you, be misled by such a series of plausibilities to take away the life of one man in the vain hope of avenging the death of another. If you once break the boundary between proof and probability—mistake what is called moral certainty, for legal proofs—accidental coincidences, for real evidence, there is no saying where you may stop. It is a light thing that one guilty man may escape: but do not let us establish a rule of conduct which may consign many innocent to death. I cannot, gentlemen, avoid hoping that you will consider this to be one of those occult crimes, the punishment of which, is to

(12) Lord Meadowbank seemed surprised at this intimation, and enquired what ground the Counsel had for the statement: Mr Deas said the fact was circulated through the country, but he did not know of any direct evidence.

be left to the God who alone saw it committed; and that you will not, on the evidence which has been produced, consign a young man to ignominy, and a public death.

The Judge's Charge to the Jury.

Lord Meadowbank said that he coincided sincerely in the observations with which the learned Counsel for the prisoner had introduced his address; and he conjured, with him, the gentlemen of the Jury to discharge from their minds all prejudices, on whatever founded, which they might have brought into the Jury-box. If the publio press had acted as had been said, a great impediment had been thrown in the way of public justice, and a signal act of oppression performed with regard to the prisoner (13). But he hoped the Jury would found their conclusion now only on the evidence they had heard in the Court; and allow to the prisoner, a right to which he had the highest claim, that of unprejudiced judges. The learned Counsel had at the same time thought it necessary to make some observations on the danger of trusting to circumstantiate evidence, in which his Lordship could by no means coincide: were that kind of evidence to be rejected, there were 99 cases out of 100 of the most glaring crimes that would escape punishment; and society would lose almost the only means of bringing to light the outrages that were daily committed against it. That kind of evidence possessed a high recommendation of which direct evidence was destitute: there was in it little fear—and no motive to—perjury: whereas, in the case of direct evidence, conclusions the most injurious, might be formed on the evidence of one perjured witness. If there was a greater risk of mistake in circumstantial evidence, there was none whatever of designed misrepresentation and perjury. It was certainly true, however, that that kind of evidence required great circumspection and consideration from Jurymen; and if they see any thing doubtful in the train of circumstances, they are bound to give the prisoner the benefit of that doubt.

There are here, gentlemen of the jury, said Lord Meadowbank. three charges: but it is to the first of these to which you ought to give your most serious consideration—it is a charge the heaviest that can be made against a human creature, and is followed by the heaviest punishment. You have first to consider whether this crime was committed at all or not: on this subject I shall not detain you.

(13) Allusion was here made, we believe, both by the Counsel and the Judge, to the account of this matter published in the Fife Herald. We shall only say, that *not one* circumstance was there stated, which was not amply proved in Court by the evidence: and that the only exculpatory circumstance adduced by the prisoner's Counsel was brought forward at the same time most fully and carefully.

Millie was amissing for four weeks—a body was found in Millie's garden in a state of putrefaction, which the medical gentlemen have told you is produced in dead bodies in that period—this body Dr Malcolm, who had attended Millie, knew from its general appearance to be his—and that gentleman had also, before the body was disinterred, asked some of the spectators what dress it was likely to have, if it were the body of Millie: one of them answered that one part was a green waistcoat; and a green waistcoat was accordingly found on the body. Then there was a fracture on the scull which was sufficient to produce death. Of the fact of Millie having been murdered, therefore, there could be no doubt.

The questions that remain are, when was this murder committed? but principally, as regards the prisoner, by whom? As to the time, you have the evidence of the little girl who saw Millie on the morning of the 26th June; and her evidence is corroborated by the fact, that she told what she had seen to her mother, and received from her a message in consequence to deliver to Millie. On that day, therefore, he was seen; but from that day forward he was never more heard of alive. The prisoner said he had gone to Edinburgh—to Cupar; but no person saw him at either of these places; and he was never heard of till his body was found, after four weeks, crushed into a hole in his own garden, most basely murdered. The state of the body when found there was that of a corpse dead four or five weeks, as the medical gentlemen have told you. The time, therefore, appears to be fixed with certainty.

Your next task—and this, gentlemen, is to the prisoner the all-important part of the enquiry—is, by whom was this murder committed? You are not required to found your conclusions on suspicions, gentlemen—vague or strong—but on a train of circumstances necessarily inferring guilt. And what are these circumstances? When one of two persons living together (as were this man and his master) is murdered, without evidence of the intervention of a third, it is necessary to enquire if any circumstance relating to the survivor is such as, without other explanation, to attach to him the guilt. Are there any such circumstances in the present case? Millie disappears on the 26th June: the prisoner continues to live in the house—he takes precaution that others shall not approach it, by desiring the little girl who used to bring milk not to return—he assigns reasons for his master's absence which are false—the body, when found, is found secreted in a way which no stranger who had committed the murder, and fled, could have had any motive for doing. The prisoner then proceeds to take advantage of his master's non-appearance, in disposing of his property for his own purposes—going on stealing and carrying it off from day to day: if he did not know that he was murdered, would he not have

feared that every moment Millie might start up upon him, and give him in charge to the first magistrate? Though, therefore, there had been no farther evidence, these circumstances would have afforded a strong presumption of guilt. This, however, is merely the broad view of the case, without entering into detail.

An account is given of the prisoner by the witnesses on the night before the murder: he had been engaged in a debauch, and had come home half intoxicated to the house of an industrious individual: that individual disappears on the same day; and on examination there is found blood on the loom, blood on the web, blood on the treaddles, and blood on the floor; and the prisoner's clothes are stained with blood. His behaviour is noticed by several individuals in the course of that day, and they all remark that he displayed a perturbation remarked by them as unusual to him. He appears afterwards flush of money; hires a gig; treats his acquaintances; buys musical instruments; and wanders about in idleness and dissipation: all this is done by a person who is proved hardly to have, had two shirts before this time. But more than this, gentlemen, he is even found in possession of the property of the murdered man —sells articles of his manufacture---his books---his weather glass ---his telescope---and remains all this time on the premises---carrying off the property deliberately, and without apparent fear of interruption. A promissory note belonging to Mr Millie is offered by him for payment---and when informed that Millie's name on the back was necessary for that purpose, he returns with that name affixed; though, by his own account, the writer was then in Edinburgh---and when, in truth, that man had been murdered and thrust into a hole in his own garden. The conclusion is inevitable, that he must have committed this forgery either under the terror that next instant Millie might come in upon him, or knowing that he was already dead, and could do nothing to protect his property. The whole of his conduct in these matters is totally inconsistent with the idea that he thought Millie was alive: he must have known that he was murdered.

Remark then, gentlemen, the deceptions he practised in order to mislead or quiet the suspicions of his master's neighbours. He goes, on the morning after his master's disappearance, to the woman from whom they had usually received milk, and tells her not to send more; and he spreads abroad a report that his master has gone to Edinburgh.

At times the suspicions of the country people point to the truth, and his conduct in such cases affords another proof of his guilt. He goes to the house of one woman (Mrs Rollo), and where the conversation turns on Millie; he *packs off* in such a hurry that he leaves part of his stolen goods lying on the table, and lets

others fall at the door. Another individual advises him to inform his master's relations of his long absence, a thing which a person who had nothing to conceal would certainly have done; but he held down his head, and made no reply whatever. There is another circumstance, gentlemen, of a very horrible kind: some one reminds him of what he might expect were his master to return and observe his proceedings; and he replies, "*O perhaps my master has been burked!*" Is it possible, gentlemen, that the commission of the horrible crimes, to which he here made allusion, may have led this individual to the perpetration of murder?—may he not have been familiarized with hearing of these atrocities, till he finished by committing a similar one himself? The hardness of feeling at any rate with which he spoke of these crimes, betrays a heart capable of much wickedness, and must operate, gentlemen, on your minds in weighing the evidence. But, gentlemen, the suspicions of the neighbours begin to trouble him, and he finds the scent too strong: he therefore adds another lie to those he had already invented, and circulates a report, that his master (who had been a month dead) had now returned from Edinburgh and gone to Cupar. You will judge of his motive for this deception.

Even if the evidence rested here it is conclusive; but the blood on the prisoner's clothes affords an additional proof of his guilt. You have the evidence of the medical gentlemen who know the appearance of blood too well to be deceived: and you have also that of the washer-woman, whose acquaintance with that matter is of too practical a kind to run any risk of mistake.

The prisoner's Counsel wishes to separate the charges, and to acknowledge guilt in respect to the robberies; pleading that he is innocent of the murder. But the whole of the manner in which these robberies were conducted, is inconsistent with any thing else than a knowledge of the murder. The webs he sold were bloodied —in the place from which he cut them, there was blood on the floor, and blood on the treadles—blood on the loom, and blood on the templers of the loom. The whole statement is therefore utterly inconsistent.

There has been no proof adduced on behalf of the prisoner, except the single circumstance, that he displayed slight perturbation when apprehended, and has behaved quietly in the Jail. But as to the former, he had already been familiarised with the charge—and could not be startled with it: his calmness, (considering the other circumstances of evidence against him), rather seems to indicate a degree of callousness which is unfavourable to any belief of his innocence.

But gentlemen, if you have a doubt, which I have not, that the prisoner was art and part in the murder, I beseech you give the be-

nefit of it. Discharge from your minds all feeling of prejudice, and all desire of avenging the death of the man who has been murdered. Let your decision be formed on the evidence, and on that alone.

The Jury was absent only four minutes, when they returned into Court, and delivered by their Chancellor, Mr Pitcairn of Pitcairn, the following verdict :—

"The Jury is unanimously of opinion that the prisoner John Henderson is GUILTY of the three charges—theft—forgery—and murder—as libelled."

The Court then returned thanks to the Jury for the trouble and attention which they had exerted during this long, painful, and important trial: and after a moment's consultation proceeded to give judgment.

It was exactly 12 o'clock at night when judgment was passed.

Lord Mackenzie said that a very painful duty now devolved on the court. All the three crimes charged against the prisoner were of such a nature that any of them might have been followed by a capital punishment: but for that of murder no punishment but one was awarded by the laws of God or man. He was unwilling to dwell on the aggravated nature of this crime: yet he could not avoid stating that the present case was a dreadful one. An unfortunate man was basely and cruelly murdered by an assassin while sitting at his own honest trade; and that by his companion, and his only companion—one who was bound rather to defend him even at the risk of his life, had that been required. The crime too was committed for the sake of base lucre; and the determination to attain that end was followed up with a degree of coolness and perseverance unexampled. The murderer remained in the house, at the door of which the mangled body of his master had been buried: he continued living in it day by day, and sleeping in it night by night; and all the while availing himself of the crime he had thus committed, to perpetrate a series of new crimes, and to carry on a continued system of plunder. Considering these aggravated circumstances, his Lordship could propose nothing else as punishment than that he should suffer death, with all the aggravations directed by the statute in such cases. The execution of this sentence he proposed to be carried into effect at the county town of Cupar on the 30th day of September.

Lord Meadowbank proceeded to pass sentence. Prisoner, he said, after a very long and patient trial, a Jury of your country has declared you guilty of three crimes: one of these is the most aggra-

vated of which a human being can be guilty. Our Maker has declared in Letters of Fire, "THOU SHALT DO NO MURDER;" yet, in the face of that command from the God before whom you must shortly appear, under circumstances of cruelty and dire barbarity have you perpetrated that crime: and that crime must now be followed by the fearful punishment which is justly awarded to it. The various circumstances which have accompanied your committing of this deed, betray such a hardness of heart, that I cannot expect that any words of mine would operate on you in the way in which they ought: but yet it is my bounden duty to tell you, that the sentence now passed will be unquestionably carried into execution before this month is ended; and that you must then appear before the Judgment seat of God to answer for all your deeds. What other crimes you may have been guilty of must remain between you and your God: but if there are none, you live a most extraordinary example of an act so barbarous having been committed without your being previously initiated in wickedness. You are now called on, with a voice of thunder, to make use of the services of the ministers of God's word, who will gladly assist you to make peace with Him through whom only you can be saved from perdition—and through whose assistance you may learn the only way in which your crimes can be washed out. It is quite in vain for you to expect that the sentence of the law will not be curried into certain execution.

The Lords Meadowbank and Mackenzie do therefore decern and decree that you, John Henderson, be taken from the bar to the Jail of Perth, there to be fed on bread and water; and with all convenient speed thereafter, that you be transmitted by the Sheriffs of Perth and Fife shires to the County Jail of Cupar, there to be fed on bread and water until the 30th day of September, in this present year: and that on that day, between the hours of two and four in the afternoon, and at such place as the Magistrates shall direct, you be hanged by the neck, by the common hangman, till you be dead; and that your body be then given for dissection. And now may the Lord Almighty have mercy on your soul.—Amen.

After these awful words, the prisoner was removed from the bar. He stood collectedly while sentence was pronounced. It seemed, however, towards the end that he was hardly conscious of observation, or capable of attention to what passed: and when the officers spoke to him to take him away, it seemed to take a moment before he understood the import of what they said. His face was much flushed, and his eye vacant and perplexed; but there were no signs of violent agitation.

HENDERSON'S CONFESSION.

Before the trial Henderson had made a Confession in Prison to a person who had frequent access to converse with him. The account he gives of the transaction is as follows; and it differs in some respects from that inferred from the evidence.

The occurrence must, according to his account, have taken place on Friday. He says that on that day, he had some quarrel with Mr Millie about his work, and in consequence of his having disarranged or broken some part of the machinery on the loom. That after this quarrel he went off to Collessie, where he got half intoxicated; and then, not knowing what to do, returned to Whinny Park: when he came there Mr Millie was sitting on the loom working or putting the machinery to rights; and had two hammers in his hands or lying near him. On seeing Henderson he began to chide him both for his being in drink, and for his bad workmanship: Henderson answered angrily, and an altercation of some length took place. Henderson, already excited by drink, became more so, from passion, and went into the house, where he knew of a pistol lying on the chimney piece. He took it down, loaded it with ball; went again to the workshop; and, walking backwards and forwards, watched for an opportunity of taking aim at Mr Millie through the window, which was open. He at last saw Millie stoop in a position which gave him a sure aim, fired, and saw him fall: he went to look close into the window, and saw that he had fallen at once, perfectly without motion, and dead. Henderson describes his own feelings now as dreadful: he went again to the house, reloaded the pistol, and walked backwards and forwards, determined to shoot himself also. After a time, however, this feeling wore off, and he grew calmer.

Imagining the pistol would be evidence of his guilt, he took out the barrel, smashed and beat it flat, and then buried it: the stock he burned; and on leaving Whinny Park, which he did soon after, he took the lock with him, and carried it some distance, and then threw it into a planting on the road to Auchtermuchty.

This is his account of the murder.

On proceeding to Auchtermuchty, (this was on Friday), he joined some companions, and went to drink with them. The same evening, he says, he was made a mason at Auchtermuchty.

He then returned to Whinny Park and buried the body. He does not mention any thing of the pit found in the work-shop.

He adds little farther concerning his proceedings till the occurrence took place concerning the deposit receipt. He says, that having found that receipt among Millie's papers, he took it to Lord Leven's agent for payment; and being informed by him that Millie's name was necessary on the back of it, he set himself to imitate his master's writing; and after practising it over and again several times, was at last satisfied that he could produce an imitation sufficiently close. He then wrote the name. It is needless to point out the callousness of a man who could practice his hand to the forgery of the man's name whom he had murdered, and that within a few yards of the hole into which he had thrown the corpse. On coming to Cupar, he says that he felt dreadfully agitated in presenting the bill for payment, and when told to count the number of notes he had received, answered, "O it's all right—it will do very well," and hurried out of the office.

Such is his story: we add not a word either of observation or comment, but leave it entirely to our readers.

The girl Barrowman, to whom Henderson gave Millie's snuff-box, and who appeared in the evidence, seems to have been an object of great attention to Henderson: it would be wrong to speak of affection between such persons: but she appears at least to have been totally ignorant of the crime with which he was now stained. The following letter addressed to her was preserved: it is written in *imitation of print;* the girl, it is probable, being able to read printed books, though incapable, as she said in her evidence, of understanding writing.

Jean Boroman

I write you these few lines and that I am well and hops that this will find you the same Jean this is a thin of a scerious nature that have heeu laid to my charge for a thing that I am not guilty of I do not care what the public may be think as I am not guilty of what I am charged with.

We have some letters in our hands which would enable us to throw something of the usual interest of love-romance over the intercourse of these two persons; but we prefer publishing the following: it is addressed to a person in whom Henderson reposed a certain confidence.

Sir,—I have to inform you that M——— has been investigattin me and tells me for to confess with the murder and it will satisfy the publick: and he says that although the murder be not proven the rest of the crims that I am charged with is clear and that they will stand as hard with me as the crime of murdr. J. B. (13) is still in jail for she will not tell any thing she knows nor will she produce security for her aperince at Pearth, but will rather be in Jail before she will do any way but what she thinks proper.

Before his departure for Perth, Henderson had been perfectly aware of what his fate might be expected to be. He desired the following verses to be copied for him, that he might insert them in a letter from Perth to the female we have mentioned above:—

VERSES ON HEARING A PASS BELL.

Hark! my dear friend, the solemu toll
Speaks the departure of a soul;
It's gone, that's all: we know not where
Or how, the unbodied soul may fare.

In that mysterious world, none knows
But God alone, to whom it goes;
To whom departed souls return
To take their doom, to smile or mourn.

Swift flies the soul, perhaps it's gone
A thousand leagues beyond the sun;
Or twice ten thousand times thrice told,
Ere the forsaken clay is cold.

(13) Jean Barrowman.

HENDERSON.

Supplement.

My son, if sinners entice thee, consent thou not.—For their feet run to evil, and make haste to shed blood.—*Proverbs.*

A GREAT deal of public interest having been excited by the perpetration of a crime happily unparalleled in this neighbourhood, it seems right to turn that feeling to some useful purpose, by tracing the progress of the wretched culprit from one crime to another, till his mind became hardened to the perpetration of the last. Some of the defects of the society in which a character so depraved could be formed, may be thus brought to light; and men whose benevolence is interested in curing them, may perhaps learn where to apply the remedy.

It has been already noticed that Henderson's parents were of a religious turn; and his education shews that they had taken pains that their children should tread in the same path: he writes very well, and is acquainted with the Bible as well as most young people. He was at school till 13 years of age, and when put to work about 14, was kept as closely employed as any of his brothers. He says that the first thing which led him astray, was his joining with some young men who used to practise music, and were called "The Dunfermline Band." Though there was nothing actually wrong in the association itself, there were a number of the lads thus brought together, whom it led off from their usual industry; the musical meeting rarely terminated without an adjournment of several of the members to some public-house, where the nights were spent in merriment and drunkenness. Henderson, who, as he expressed it himself, had the way of "keeping them all hearty," (had a kind of turn for humour,) was almost always of these parties; and after a night of dissipation and enjoyment, seldom felt much inclined for working next day. He was accordingly found on such days wandering about idle, or wearing off the horror of the pre-

vious debauch in the excitement of drams, or freaks of idleness. Even when not led away by his musical acquaintances, his jocular humour and capability of *bearing drink* made him sought by others; and he was so much accustomed to be called away from his work for drinking parties, or to go about chatting from house to house, that after a certain hour in the evenings he grew, as he tells, quite uneasy if he did not hear the usual tap on his back window by one comrade or other for that purpose. One of his early friends, a person possessing some little property, and not under the necessity of working constantly, he blames bitterly for thus throwing temptation in his way.

The number of loose characters whom Henderson points out, as the tutors of his own backslidings, shew a very unhappy state in the population of our manufacturing towns: and he says, as might be expected, that those among them who were able to make large wages, without having much education, or a taste for any but sensual enjoyments, were always the worst. Young men too, of the working class, who had inherited a little property, but had no ambition to increase it, or rise to a higher situation, feeling themselves relieved from the necessity of labour, and having no solicitude about a character for industry, were the most mischievous associates he met with.

There is another cause to which much of the depravity of the young people in manufacturing towns is owing; and which spreads its corruption with singular virulence. Some of them have a taste for reading, and a thirst for the distinction of superior knowledge. Their pride however in this matter, seldom consists in having an accurate knowledge of any thing useful, but in being able to defend some paradoxical opinions on matters of general interest. Politics, but especially religion, is a standing theme with them; and he who is able to maintain the most unexpected notions with the greatest ingenuity is generally the most admired. Some of them certainly devote their leisure to matters of real curiosity or use; at one time optics was a favourite branch of knowledge with the Dunfermline work-people; and many of them

(Henderson's father being himself an example) could grind lenses and construct microscopes, &c. with great neatness: others sought an acquaintance with parts of chemistry. But a great number, with only a smattering of these, sought an easier road to distinction by infidel discussions on matters of religion, which attract by their novelty, and give an appearance of boldness and freedom from old-fashioned prejudices, which young people are fond of affecting. Henderson, when chained in his cell, described the scenes which took place nightly round some of the apostles of these doctrines, with a kind of shudder, which shews how little they are calculated to afford consolation in situations like his. When these men wished to initiate (or rather entrap) a young disciple, their way was to get him into a place where two or three of themselves met together, and conversed on subjects which to him seemed mysterious and beyond his reach: if he asked questions, they answered them complacently, but smiled at his ignorance: his curiosity, and perhaps his pride was roused, and he went on inquiring: aiming ambitiously to be equal in knowledge with people who seemed to be so wise; and as they took care only to afford such instruction as suited their own purpose, the track of the disciple was soon chalked out, and his fate sealed. One of these people, at a toll in the neighbourhood, used in the Summer evenings to gather about him the lads who had left their looms for the day and snapping his fingers at all religious feeling, set about reciting to them such passages from the Old and New Testament as before an ignorant audience may be most easily made the subject of objection or ridicule. It was not difficult amid young people, whose chief object in such meetings was relaxation from their daily work, to create merriment sometimes at the expence of the Bible, sometimes at the expence of the clergy: while at the same time the speaker's reputation as a great reader, "*a knowing man*," gave to all he said an authority which stamped it deeply in their minds, and formed the barb which rendered the poisoned dart inextricable. When it is considered that the denial of "*Religious privileges*" to young persons who have behaved ill, is among the most

powerful checks on immorality among the people; and that the desire of standing well in the eyes of the congregation with whom they are to meet on Sundays, is one great reward of good behaviour, it may be well conceived what an effect the diffusion of doctrines will have which destroy all these ideas.

All external observances of religion, family worship, keeping the Sabbath day, admission to the sacrament, it is the delight of deistical people to laugh at as unnecessary superstitions: and to teach that as long as a man does his duty to other men, and to the world, he is as good as the most pious Christian. They do not consider that these observances are (even if they had no higher character) so many safeguards and outworks of morality; and that a breach in any of these, teaches the young with less scruple to disregard reputation in other respects. When we look around on the world, we may sometimes think that the number of persons really devout is small: but we seldom reflect that even among those who do not feel the proper influences of Christianity, its profession does infinite good, by forcing them to measure themselves with those who really aim at reaching the standard which that religion lays down. The ten righteous men—ten religious men—may in this view really save a whole city: and on the contrary, the presence of ten deists who would annul the observances of religion, and take away the checks which they afford on the conduct of the young, may destroy it. How intolerable it used to be, for a young man or a young woman to be pointed out as one who could not be admitted to *church privileges*—who could not be received at the sacrament—or if married, could not have their children baptized: yet all these considerations are done away with, wherever the lower classes begin to be tinctured with deism, because then they no longer seek such privileges—or regard them.* And this, we are sorry to say, is too much the case in many of our manufacturing towns as well as Dunfermline.

* It will be seen that the question is stated here only as regards the effect of the external observances of religion on moral character: the higher influence of its doctrines and precepts, it is not our present purpose to consider.

The wild extent to which these doctrines not long ago prevailed among some in the latter place, may be guessed at, from several of their disciples having at one time actually got up a mock representation of the crucifixion, in a manner too repulsive to be stated. It is singular, and shews the terrible re-action of an awakened conscience, that one of the actors in this scene of horror went home raving; and actually died in that state.

Henderson does not appear to have been in person a disciple of any of these wise men of the mob: he is only to be quoted as an example of the laxity of morals which their principles tended to encourage in the place of his nativity. The idle habits which we have already noticed in him, found abundant cultivation in a soil where the neglect of religious observances rendered sobriety of conduct unimportant: and finding continued labour at last altogether intolerable, he began to cast about for some easier way of obtaining a livelihood. His friends obtained a little credit for him; and he got an assortment of goods, with which he travelled through the country as a pedlar: he had not then lost the habits of honesty, and for a short time he carried on a little traffic of this kind with tolerable success. His inclination for loose and profligate company led him, however, into scenes which destroyed even this last resource for an honest livelihood. He met in his journeys with a man of the name of Morris—a carrier—a character whom Henderson described as uniting in perfection the qualities of a wit and a rascal. It was singular to observe the contradictory feeling that guided Henderson, even in his cell, when describing the characters who had been his associates and leaders in evil. At times, as former scenes recurred to his mind, the pleasure which he had enjoyed in them seemed to return also; and he spoke of his comrades as "*clever men*," "*hearty fellows*," "*real good-humoured chaps*," and so forth. It seemed impossible for him, even in his chains, and with the prospect of death, to divest himself of the feelings which he had acquired in his course of dissipation and crime: and they recurred to him quite unconsciously on many occasions. If even the little qualifications by which he had distinguished him-

self among his companions, singing, &c. were incidentally alluded to, he seemed still (in spite of himself) to betray a kind of pride in them. This, however, though certainly an out-breaking of the natural man, and an evidence perhaps of the vanity of a three weeks' repentance before death, was not a disposition which continued long. The situation into which he had been brought by the advice and example of such characters and such qualifications as we have mentioned, immediately returned to his mind, and he spoke of his old companions with anger and a kind of enmity. He seemed in these moods to wish that they should bear a part of the ignominy to which he had been subjected; and one of his principal wishes always was, that the world might know who had misled him.

The man Morris whom we have mentioned above, was one of the principal of these; and seems indeed to have been a consummate scoundrel. He became acquainted with Henderson when travelling as a pedlar; and encouraged him in all manner of evil. They passed many pleasant evenings in company, "and had been fou for weeks thegither."* All the low houses in the range of Morris's weekly journies became haunts for his companion: and the consequence, as might have been expected, was, that money began to run short. Morris advised him to sell his goods for whatever they would bring, and use the money freely; and Henderson, whose idle habits and fondness for indulgence, seem to have needed little prompting, was easily prevailed on to consent. This he says was was his first step in dishonesty: but he made it without hesitation; and went forward in the course, using the fruits of one crime to pave the way for others. His conduct could not be long concealed from his friends, who soon heard with what kind of associates he kept company, and saw that he never thought of paying for the goods bought on their credit. In the former

* Some readers will hardly pardon us for quoting a line of Burns in reference to two comrades, one of whom has been hanged and the other transported—or fled the country: but sorry are we to say, that the jocular humour with which the poet describes these habits of some of the lowest of our peasantry, is not always understood as satire.

publication on this subject, we alluded to a dream of his father, where that respectable person had seen on the night of his son's birth, a gibbet erected opposite his door, and an immense crowd assembled for an execution: this story, however strange, is perfectly true,* and it will not appear singular, that when this father saw the course his child was now running, he trembled least his dream should be realized. It still appears to us, however, that a weak belief in the dream, may have tended to cause its fulfillment; for the solicitude of his friends to prevent the detection of crimes which were likely to lead to such a consummation, and their willingness to make amends for his depredations, must have encouraged him in the course he had adopted: or at least have prevented him from being stopt short by some smaller punishment which would have severed him from his companions and bad associates.

Henderson having been, by the intervention of his friends, freed from any apprehensions as to selling the goods with which he had been entrusted, returned to Dunfermline to his work. He was here in the midst of those who had misled him at first; and as he seems to have been open to every temptation, he never sought to change his course, but went on in dissipation and crime. He was soon obliged to leave Dunfermline for stealing, and went to Aberdeen. He remained here for some months, employed as a carpet weaver. It is likely, such were his own dispositions, that he would have found evil associates any where: but the state of the manufacturing population as to morals, must be in a very infected state to have afforded so many abandoned characters, as he described having met with here. He said that among the weavers in Aberdeen, there were a great many loose characters, and people who never thought of any religion at all: but of deistical pretenders to knowledge, there was not so many as he had seen elsewhere.

* Henderson's mother was thrown into serious illness on the dream being repeated to her, while yet in a state of weakness. It is singular that his father, who, during the period of his son's evil courses, was rendered almost incapable of following his business, has, since the recent occurrences, become perfectly calm and resigned, and works at his trade regularly.

Some decent quiet people he found; he had even a relish for the conversation of such, and recurred to it in prison with pleasure.* But his ideas were altogether such a medley of early seriousness and after dissipation, that it was impossible to tell which was uppermost in his mind; or to which of them, leaving the choice to himself, he would give the preference in conversation.

After leaving Aberdeen—he did not tell for what cause—he went to Kilmarnock, where he had only just arrived when he was seized with a fever, which kept him confined to his bed for three weeks. He represents himself as at this time deeply affected by thinking on the kind of life he had led; and says that he formed the most serious resolutions of amendment. He recovered; and returned to his evil courses on the first temptation. It has been customary to set some value on the penitence of prisoners under sentence of death: it is, we are very much afraid, too much akin to that three weeks' repentance which this criminal exhibited under a fever. The stains which the mind has contracted by long acquaintance with vice, are too much like the stains of blood on the clothes of a murderer—they are not to be washed out by a wish—hardly by the longest and most careful purification. We respect the benevolence of good and pious men who tender their services to wretches in such situations, and are eager to believe them successful: we would not outrage even the hopes of the criminal himself. But to think that the repentance of the halter is an evidence of the purification of the heart from its long stains, or a security that, on returning to life, its wonted dispositions would not also return in all their force, is what we cannot prevail on ourselves to do. The fountain of Almighty grace is inexhaustible; but that the apparent repentance of a criminal under sentence of death should be received as an evidence that it has been bestowed, is lamentably wrong.

This, however, though too often the case in many in-

* As an instance of the effect of early habit, and of the inconsistency of men's minds, it may be mentioned that Henderson, notwithstanding the course of life he had led, mentions his having been much shocked while in Aberdeen, by hearing a man *whistling on the Sabbath day.*

stances, was not particularly so with respect to this criminal. The ministers of the gospel shewed him the enormity of his crime; and told him that it was both decent towards men, and due to his Maker, that he should express contrition—and if possible feel it—for the deed of which he was guilty. To alter, in a few days, the constitution of a mind long accustomed to criminal indulgence, they felt to be impossible: and hoped that God in his great goodness, might accomplish that which passed the power, and almost the conception of man.

But we have digressed from our present object, which was to give an account of the life of this man. It may not be improper to let him do this in his own words: while in prison he wrote out an account of his former life, at the request of some persons who visited him. This paper recounts several of the circumstances which we have already mentioned: but as they are stated in his own way, and with his own reflections, the narration may afford some kind of insight into the state of mind with which men in the day of trouble look back on former indulgences.

"I remained at school till I was about 13 years of age, when I went to the weaving trade with my father. I served a regular apprenticeship with him, and during this time I was very steady in attending my work. When about 17 years of age, I began to get acquainted with some young people of the place, who delighted in nothing so much as in going about idle and doing mischief; and in course of time I began to be a lover of their company and their ways of doing; and when the Devil found us idle he soon put a turn of mischief in our hands. I soon began to forget to go to the house of God, and despise my parents' advice, and was angry when they told me that I was going the broad way to destruction. Work began to be a burden to me, and then I took pleasure in doing nothing but going about with wicked companions like myself, neither regarding God nor man. I then went and joined with a band of instrumental music in Dunfermline, that led me farther on the way to destruction; for every Saturday night we all met in the lodge for the purpose of practising, and then went

to the public-house, and often would sit till Sunday morning, regardless of all decency. Being with them about 18 months, I gave them up on account of my father threatening to put me from the house if I persisted. I then went and got some cloth from some of my friends, and *went to the country* (went out as a pedlar). My general track was about Perth and Kinross: and getting acquainted in Kinross, I fell in with some bad characters, such as Samuel Morris, the Dunfermline carrier, who got me advised for to sell my goods at any thing that I could get for them; so through drink and bad advice he soon gained his end, by getting me for to do any thing that he thought proper; till at last I found I could get no more credit, so my friends began to forsake me, and hated for to hear my name mentioned amongst them. So I returned to my father's, and commenced to my old trade the weaving again, and carrying on with bad company in spite of all the advices my father could give me. About the beginning of the year 1829, I was employed in weaving to a manufacturer of the name of William Kings; being in company with some of my old companions, and my money running done, I did not know how to get more raised by any honest means: I was told by some of my companions to go to my manufacturer and get some money from him: so I went, and he not agreeing to give me any, I immediately went and took the web that I was weaving at, and sold it to a person in Dunfermline for about two pounds; and this money carried out my wicked plans for a short time longer. I then left the place knowing that there would be a warrant out against me for so doing. I went therefore to Aberdeen, and from thence to Kilmarnock, at which place I took ill, and was forced to lie in my bed for about three weeks. I sent a letter to my friends concerning the state I was in, asking forgiveness from them, which was granted; and in a short time I was able to travel to Glasgow, where I met my brother, who came to take me home: so we went to Dunfermline, and I stopt in my father's till I was able to begin to work again. One morning three officers came with a warrant to take me before the Sheriff for the crime of fraud and breach

of trust: being apprehended, I was put in jail for the space of five weeks; and was only got out on bail under the penalty of twenty pounds sterling, for my appearance. In the course of six weeks thereafter I was indicted and tried before the Sheriff-Substitute for the crimes with which I was charged: I was sentenced to two months imprisoument in Dunfermline jail. After my time was expired, I went to my father's and stopt there till about the time I went to Millie's, which was about the 20th of February last."

So far he tells his own story. While residing with Mr Millie he was very little known in the neighbourhood; but he was not liked. His appearance was ragged and repulsive; the country people could not explain the reasons of their aversion to him; "there was something they did not like,"—"he was a down-looking strange like creature;" these, or any other vague phrase, served to express their dislike, without assigning the reason. One thing they all remarked, that *he had no Sunday clothes to put on.* In the country places of Scotland this expression says a great deal; it marks at once in the party want of thrift and want of religion; a disregard of industry and of decent appearance: while such an opprobrium remains attached to his name (without some sufficient reason), no stranger need hope to be received among the young people of a Scottish village, with whom a decent appearance on the Sabbath, and a regular attendance on some place of worship, is still happily a criterion of character. It is so in general at least: and if there are exceptions we hope they are few, and may not encrease in number. A trait of this kind in the people, which is in some measure both a security for prudent management and religious principle, ought to be cultivated as carefully as possible.

Henderson and Millie lived together from February till June in the greatest harmony; and the former even gained on his master's confidence and good will to a singular degree. He was quiet, and humoured Millie's eccentric disposition with considerable attention; and when any of Millie's acquaintances called on him in an evening he was frequently of the party. On one of these

occasions he found his snuff-box empty, and was expressing his regret that he could not give some one a "sneeshin:" shortly after Millie went out, and remained absent for about half an hour; when he returned he held out a paper of snuff to Henderson, saying "I have been at Collessie to get that for you—would you do as much for me?" Such a trifle shewed the good will which existed on Millie's part towards him: At another time, after his sister had left him, a neighbour of Millie's, meeting him abroad one evening when it was somewhat late, said "Are you not afraid, James, to leave your house this way at night after Catherine has gone?" Mr Millie answered "O, not at all: I have a man with me, whom I can trust with any thing." From his having gained so much on his master's confidence, it is probable that he had at this time really determined to reform his conduct in some respects: and it is lamentable that the step he had thus made towards the right path was, by the return of his evil habits, only the means of making his crime more atrocious. It was perpetrated on a man whose confidence and good will he had gained; and with whom he had lived in the habits of companionship and quiet industry for several months.

Some people may wonder that Millie could remain intimate for so long with a man who had the dispositions of a murderer: but this only shews how unable we are to judge of character from appearance. Henderson in his countenance, his voice, or his manner, never betrayed the slightest appearance of ferocity: and even when in irons, and approaching the scaffold, seemed a quiet inoffensive creature, whom one was disposed to blame themselves for regarding with aversion or treating severely. Yet such was the man who committed a deed which turns the heart sick to think of.

While in prison, both before and after his trial, he confessed the crime which he had committed; but seemed excessively anxious to do away with the idea of premeditation, or of any cruelty in the manner of perpetrating it. He always wished it to be understood that he did it in consequence of a quarrel; and at first said that he had shot Mr Millie with a pistol. He even nar-

rated the occurrence as taking place in this way with a minuteness and circumstantiality which was astonishing—mentioned where he had found the pistol—that he had determined also to shoot himself with it—told that he had broken it to pieces to avoid detection, and specified the places where he had laid the different parts; he had thrown the barrel into a certain spot on Lord Leven's policy—had burned the stock, and put its brass mounting into a box in Millie's garret—and had thrown the lock into a corn field near Rossie. It was told him that Millie had no pistol*—that the appearance of the wounds could not have been made by a shot—that all the places he had pointed out (except the last) had been carefully searched, and no vestige of a pistol or its mounting found in any of them. He still in the face of all this persisted in his story. His chief object seems to have been the desire of avoiding the imputation of cruelty, in perpetrating the deed with a hammer: but that a man in the near prospect of death could in this manner sit down and coolly arrange and circulate a lie, shews effectually the debasing effect of a course of debauchery and crime; and proclaims loudly the inability even of the King of Terrors to change the mind which has been bent by the practice of evil.

He was at last prevailed on to give an account of the deed he had committed, which must approach nearer the truth, as it corresponds better with the appearances observed on the spot where it was committed: and this we now publish: but he still peristed in denying every thing like premeditation. On being questioned particularly on this subject, he said—"I did not have it in my mind *three minutes* before I did it"—"I never thought of it till the moment"—and so on. When he was told that one who had done such a thing in a passion merely, or in the heat of a quarrel, would never have gone immediate-

* When told that Millie never was wont to keep any pistol in his house, he said that he had brought one from St Andrews, whither he had been the week before. It was proved that Mr Millie called at a friend's house (Mr Rattray's) on his return, and had no pistol with him: Henderson then said he did not know how it came, but he saw it first on the chimney piece, about a week before.

ly to make profit of it, by seizing his master's money and keys,—or have gone as he did to buy a suit of clothes with the money he had seized,—he remained silent, and said he could not help it,—he had no thought of taking these things before committing the murder, and only seized them in a kind of reckless desperation after it was done. Though this account of his motives is all but inconceivable, and will never be believed by the public, it was not judged proper farther to urge him on the subject. We subjoin his confession as it was written out in the presence of the Magistrates: at the end will be found remarks on some passages which are inconsistent with probability or with evidence; and which tend to shew that this wretched man went to the death, with a lie on his lips. It is believed that the confessions he left under seal with the Magistates of Perth, contain the same story about a pistol, in which he persisted for some days after his return to Cupar: yet he exacted from these gentlemen the most sacred promises that the contents of that paper should not be published till after his death.

Some account of his behaviour while in prison will also be found after the confession.

Confession before the Magistrates.

About eleven o'clock on Friday the 25th June, Millie left home to go to Collessie or Monimail, leaving John Henderson in Whinny Park alone and at his work; while he was thus employed something went wrong with the machinery of the loom: nobody being present to assist him in setting it to rights, he went off to Collessie, to the house of a person of the name of Arthur:* he remained there drinking till about two o'clock, and on leaving was a good deal heated with liquor. On coming back to Whinny Park, he found that Millie had returned, and was in his workshop conversing with Lord Leven's gardener, Thomas Greig.† In a short time after, Mr Greig left the place, and Millie accompanied him to the little iron gate of Whinny Park: Millie then returned to the shop, and was requested by Henderson to give some assistance in repairing the mounting (machinery) of the loom. Mr Millie began to chide Henderson for his absence from work, and for drinking, saying that any person might have come into the house, and taken away articles when both were absent:‡ he was at this time stooping down putting the machinery to rights. Henderson had at the same time a hammer in his hand in order to rivet some nails of the *big treadle* on the one side, which Millie was to drive on the other. In order to get into a proper position for doing this, Henderson had to pass behind Millie, while the latter was stooping: it was at this time that Henderson gave Millie the first blow on the right side of the head with the hammer which he had in his hand. Millie immediately fell over towards the right side: Henderson says that he does not recollect of giving a second blow, but only adds, that if there

* Arthur recollects that Henderson was in his house this Friday, and remained longer than he had ever done before.

† Mr Greig recollects of this circumstance.

‡ It will shew the singular perversion of Henderson's mind if we subjoin another account which he wrote with his own hand, of the deed. We beg of our readers not to be shocked in perusing it; and to recollect that our purpose is to shew in what a fearful condition is that man's mind who can shed the blood of a fellow creature. He says "Millie came in, and began with the most insulting language that could be; but I said nothing: and the Lord so far left me to myself, and the drink being in my head, that I believe I did not know what I was doing; and I immediately went to the kitchen while Millie was in the shop, and took from the shelf a pistol and powder and ball, and immediately went to the back window, and discharged the same at him: so he instantly fell to the ground as soon as it was done: I then charged the same with the intention that if any person should attack me, he should share the same fate: but no person coming I discharged it in the air.

were two wounds he must necessarily have done so. Millie, he says, did not after the blows make any motion that he recollects observing: soon after, he heard some person at the iron gate of the garden, and ran to prevent any one entering. The person proved to be Widow Brebner, with some bobbins on which she had been winding yarn for Millie. Henderson took the bobbins, saying (as he recollects) "James is not in," or some such words.* He then returned, not going to the shop, but to the kitchen, where he laid down the bobbins beneath a window. On going back to the shop, he locked the door, without entering. He then returned to the kitchen, took some money which he found there (about £6), and went off to Auchtermuchty. He staid in that place all night drinking with some companions, and purchasing a suit of clothes. He was only back at Whinny Park about six o'clock next morning. He did not then immediately go into the shop, but went to the kitchen, where he stopped till about eight o'clock, and received the usual milk there from the little girl Blyth. Went then to Collessie, and remaining there but a short time, went from thence to Letham, passing Whinny Park: (he does not recollect whether he went in or not). When at Letham in the morning, he was in Mr Beveridge's shop; and in some other houses there. He then went either to Collessie or Whinny Park, and returned a second time to Letham† about 3 o'clock, at which time he went in to Mr Wallace's, vintner, and had there some whisky and some tea. He returned to Whinny Park about 4 o'clock, and went into the shop, but had not courage to walk up to the spot where the body was lying. He then took a pick and dug a hole in the floor of the shop, near the back wall, intending to bury the body there; but found that the

* Widow Brebner has been questioned as to this circumstance, and recollects being met by Henderson as he states: she does not precisely remember the day, but this may be fixed by another circumstance; for she thought, when he met her, that he had come to carry in some coals which were lying at the gate; now it is known that these coals were brought thither on Friday (25th).

† In the paper formerly mentioned, which Henderson wrote with his own hand, he says, in reference to this day, "I opened the shop door, and saw the unfortunate Millie lying besmeared with his blood: I then took a pick and spade, and digged, at the back of the shop, a hole, with the intention of interring the body there; but was soon disappointed by striking against the solid rock: I filled up the hole again, and went about the place the whole of that day in a miserable condition, not knowing what I should do, or whether I should take my own life or leave the country. I then went to Mr Wallace's in Letham, called for some drink, but after I got it, I could not drink it, for my hand shook like a bush."

earth was too shallow, the rock being only about 20 inches below the surface; and filled up the aperture immediately. At this time he threw over the body a sheet which he found lying in the shop. He afterwards tried to make a grave sufficiently deep on the west side of the house-door; but found the same obstacles here. He then went to Collessie (having locked all the doors), and remained there (either in Robert Lawson's or the shoemaker's) till about 9 o'clock. His mind all this time was in a state which he cannot describe—he says it was terrible: and he did not know what to do. When he returned, about 9 o'clock, he took a pick and went to the footpath leading to the well, where he again dug to make a hiding place for the body. He was successful here: and after completing it, he went to Mr Millie's bed in the kitchen, undressed, and went to bed. He was greatly fatigued, but could not sleep; and rose next morning about break of day. He then went to the shop, in order to remove the body. When there, he saw evidences which convinced him that Millie must have made efforts to rise after being first felled by the blows: the cloth next the cloth-beam was all over blood, as if it had been rubbed with a brush; this, he says, must have been caused by his head rubbing against it in the attempts to rise. Henderson only observed these marks afterwards—the morning, while he was removing the body, being only a grey dawn, and not sufficient to give light inside the house. He got the body out, having brought a wheel-barrow to the end of the loom, and thus wheeled it along and down the path leading to the well. The sheet which had been thrown over the body in the shop he kept over it also in the wheel-barrow, and threw into the grave with it. He then covered earth upon the body, and *made the spot like a footpath, as it had been before:* it might be about 5 o'clock in the morning when this was all finished. He then went back to the shop, cut the bloodied cloth out of the loom, and took it into the kitchen, where he burnt all upon which he observed blood: what appeared unstained * he took up stairs, and laid it into one of the rooms. He then returned to the shop, and having strewed lime on those parts of the floor where there was blood, he returned to the kitchen, where he remained till about 9 o'clock. He did not during these days cook victuals in the house, but ate any pieces of bread he found, and got other food in the houses where he went to drink. He kept himself during the whole time in some measure heated by spirits; of which, besides what he drank elsewhere, he found two bottles at Whinny Park. "Whenever," he says, "the drink began to deaden on me, I got into a terrible state, and then drank more—and more." He cannot recollect any of his thoughts at this time—but felt greatly bewildered. About 9 o'clock in the

* This was part of what was sold at Newburgh.

morning he went to Mrs Blyth's at Hallhill to fetch the usual milk; and in order to keep down suspicion, mentioned to her that, as Millie was going off for Edinburgh on Monday, and he himself to Dunfermline, she needed not bring any more milk till she got further orders. He then returned to Whinny Park, breakfasted, and continued wandering about the place the whole of that day, till about 6 o'clock, when he went to Letham with a farm servant of the name of Lister, with whom he was but little acquainted, but with whom he asked to sleep that night, being afraid to remain alone in Whinny Park. He returned thither on Monday morning, dressed himself, and went off to Auchtermuchty: he had about this time something more than £3, which he had found in the house, [the £6 he got before, he had paid away on Saturday for the clothes he purchased]: he there fell in with David Ford, and asked that person to accompany him in a gig to Dunfermline, offering to pay his expences, and giving him 15s. for that purpose. They accordingly procured a gig, and proceeded to Auchterderran, where they left the gig and walked on to Dunfermline. He remained there till Saturday, and spent all his money, entertaining a number of acquaintances. During his residence in Dunfermline he slept two nights in the Old Inn, and was there on other evenings spending much of the money in drink: here also he sold Millie's watch for 15s., which was spent with the rest in drink. It was at this time also that he gave away Millie's snuff-box and brooch to Jean Barrowman; saying he had got the box in a present, and had bought the brooch. While Ford and he were absent at nights from Henderson's father's, they said as an excuse that they had been away at Culross or Carnock. On Saturday he returned with Ford to Auchtermuchty, and remained in his house that night.

SECOND WEEK.

Sunday, July 4.—In the morning he went on to Whinny Park, feeling all the way in great terror least some discovery should have been made in his absence. On the road he was relieved by meeting Robert Lawson, who was going from Collessie to Auchtermuchty Church, and who said to him, "There is no word of your master returning yet," or something to that effect. He then proceeded to Whinny Park, and remained there or about Collessie all that day: he slept at Whinny Park at night; and went once or twice to look at the grave, to see if any one had touched it. On Monday morning, about breakfast time, he went to Newburgh to sell some table-cloths which he found in the house: he was seen on the way by Nanny Crambie (sister of Mrs Brebner, who washed his clothes), and told her that he was going to Newburgh with some cloths which Mr Millie, before he went to Edinburgh, had told him to take thither; she directed him by the nearest path to

the road he wished. On reaching Lindores in his way to Newburgh he called at the public-house kept by Mrs Rollo, and lost the silver spoons there, as mentioned in her evidence; but does not recollect being flurried by any person questioning him there as to the cloths being of Millie's workmanship. He sold the goods at Newburgh for about £3:* and went to Auchtermuchty to Muckarsie's public-house, where he remained all that night, and till Wednesday morning: on the latter day he went to Dunfermline in a gig, with a lad of the name of Ross, who was driver. He had no reason for returning so soon to Dunfermline, but merely that he could not settle to work, or remain about Whinny Park. In Dunfermline he remained all night in Short's Inn, in company with some acquaintances; and got up next morning about 6 o'clock to return to Whinny Park, being uneasy least a discovery should take place in his absence. He did not find the boy, or the gig—the inn door being still shut: he therefore came off by himself and walked to Auchtermuchty, which he reached on Thursday afternoon.

THIRD WEEK.

Sunday 11*th*.—He does not recollect particularly what occurred between Thursday and Monday. On Monday (he believes) he went to Newburgh, where he recovered the silver spoons as mentioned in the evidence, and sold them with other goods for about £3: he thinks this was the day on which he sold the weather-glass and spy-glass. After selling these things he returned to Auchtermuchty and went again to Muckarsie's, where he remained till Wednesday drinking with a great number of persons. He came to Whinny Park on Wednesday, where he took a deposit receipt, (which he had seen in the pocket-book where he found the former money), and went with it to Mr Taylor's, agent to the Earl of Leven, (to whom the promissory note was granted), in Cupar: he did not see Mr Taylor that day, and was desired to call back on Thursday; on that day accordingly he saw Mr Taylor, who asked how he came to have James Millie's bills—he does not well remember what answer he made, but recollects that Mr Taylor told him that the money would be paid at the Commercial Bank, if Millie's name were written on the back of the paper. He then returned to Whinny Park, where he went to bed, and slept till next morning: not having any pens or ink there, he left the place in the morning about 9 o'clock, and went to the Bow of Fife, where he called for a bottle of beer, and requested some writing things: he then laid a copy of Millie's signature before him, and endeavoured

* It may be mentioned as a singular instance of perversion of mind, that he assigned as the reason of his taking the articles and selling them, that he was so disturbed he could not settle to work.

to form on the bill the name of that person as like his own writing as possible. On arriving at Cupar, he presented the bill at the Commercial Bank, where he received the money. He was much agitated while the notes were counting out, and could not wait to reckon them over himself, but hurried away quickly. He then went to Mr Boyd's where he bought a watch for £4—an idea which had never struck him till he had the money in his hand. He hired a gig at Mr Carnagie's, and went to Auchtermuchty, where he arrived about 5 o'clock: while there he went to Muckarsie's, and had a good deal of drink: Muckarsie, observing that he had abundance of money, said, "the folk say that you have murdered your master and buried him in his garden."* This Henderson denied, and does not recollect dropping any word which might intimate that such was the case. He took a gig and went in company with Bell Chambers (Muckarsie's sister-in-law) to Dunfermline, where she has a sister married, and where Henderson left her. They arrived at Dunfermline about 3 o'clock in the morning: and proceeded directly (Henderson and the post-boy) to Queensferry, where they took the mail for Edinburgh. Henderson says that he had no thought of going to Edinburgh till he reached Dunfermline, and that then his only object was to see the place. While there, the idea struck him of writing a letter as if from Millie at Edinburgh to himself at Whinny Park, in order to keep alive the persuasion that his master was still in Edinburgh: this idea occurred to him in the house, and he acted on it at the moment, but had never thought of it before. He purchased the musical instruments, a trumpet and key bugle, as mentioned in the evidence, at Mr Robertson's shop for £4. He and the post boy then returned to Queensferry, and went to Dunfermline that night with the gig.

FOURTH WEEK

Sunday 18*th*.—They stopped in the Old Inn till Sunday morning, when they came off to Auchtermuchty with Bell Chambers; and after about an hour proceeded to Whinny Park: he went thither without the same terror of a discovery which he had felt on his first return from Dunfermline. He returned to Auchtermuchty that night, not remaining above an hour or two about Whinny Park, and only looking if the doors were fast, without remaining any time in the house. He stopt at Muckarsie's all Sunday night, and returned with him on Monday morning to Whinny Park: Muckarsie saying that he had some business at Collessie in the neighbourhood; after they were at Collessie Muckarsie said he would proceed onwards the whole way, as he would like to see Whinny Park; and on the way urging Henderson to sell his watch,

* Muckarsie says he does not recollect using this expression.

for which he offered £3. As they returned through Collessie, Henderson went in to Mr Lawson's and received the letter which he had written from Edinburgh; after which, leaving Muckarsie at Trafalgar Inn, he went back to Whinny Park for the papers which the letter directed to be sent to Edinburgh. His only view in sending these papers was, he avers, to keep up the delusion that Millie was detained transacting business in Edinburgh, and wanted the title-deeds for that purpose. He says that he never thought of using these papers as a means of converting the property to his own use in any way. Muckarsie had during this time gone onwards to Auchtermuchty; and Henderson arrived there in the evening. That night he sold the watch to Muckarsie for £3, which was spent chiefly in drink; £1, 5s. being given to a lodge of masons, of which Henderson entered as a member on the Wednesday following. Next day (Tuesday) he went went with Muckarsie's wife and her sister Bell Chambers to Whinny Park; these two females wished to go, and brought with them a basket with the ostensible purpose of fetching some berries: when there, they filled the basket half with small fruit in the garden. They returned to Auchtermuchty; Henderson followed them in about a quarter of an hour, and overtaking them on the way, went with them the rest of the road. That night, (Tuesday 20th), and all Wednesday till Thursday morning he remained in Muckarsie's: and returned on Thursday to Whinny Park. On that day he took some cloths and went to sell them at Newburgh. while there he called at Robert Heggie's and Thursday night about twelve o'clock employed him to call the carter of the name of Brough, with whom Henderson returned that night about 12 o'clock to Whinny Park for goods as detailed in the evidence. Brough expressed some wonder at the untimeousness of the journey: but consented to go on its being represented as a matter of necessity to Henderson. There was just one sack of goods, and as they were sold below value, they only brought about £4. He remained in Newburgh all Friday selling the goods; and slept there on Friday night. On Saturday morning he carried 4 vols. of Forsyth's Statutes to the house of Mr Stewart, innkeeper, where he met Mr Stewart's son, Gavin Stewart, writer, and offered him the books for sale. Mr Stewart purchased them for 15 or 16 shillings—Henderson saying he had got them in barter for some Dunfermline goods he had sold. He does not recollect having mentioned any thing about selling a property on the title-deeds of which he could lay his hand. Henderson then returned (on Saturday morning) to Whinny Park, where he saw Millie's sister, as mentioned in the evidence. He was at this time in the full intention of going out of the country entirely,* and was leaving

* He means by this only that he intended to go to Kilmarnock.

Whinny Park on the way to do so, when he met Millie's sister asking after her brother. After this he went directly to Dunfermline, having about £4 with him, and intending to go off on Monday morning to Kilmarnock. He was apprehended by Kennedy on Sunday morning.

Cupar, 16th September, 1830.

What is written on the 15 preceding pages is the voluntary confession of John Henderson, relative to the murder of James Millie, emitted by him in the presence of James Thomson and Thomas Drybrugh, Baillies, and Andrew Welch, Dean of Guild of Cupar. And subsribed by John Henderson and the said Magistrates.

JOHN HENDERSON.

JAS. THOMSON, B.
THO. DRYBRUGH, B.
ANDW. WELCH, D. G.

Such is the account given by this man of the murder of his master. With regard to his transactions after the deed itself, the plundering of the house, selling the goods, &c. we shall make no observations; they may be true, and there is no reason to suppose them otherwise: but as to his narration of the action itself, we beg our readers to notice the following particulars.

1st. He asserts that it was done without premeditation, and only through the influence of intoxication and passion. Had this been the case, would he immediately have gone to his master's drawers, taken the money he found, put the keys deliberately in his pocket, and gone off to buy clothes, and entertain his companions in the next town? A person who had committed such an action in the fury of anger, or drink, was likely to have fled in terror at what he had done; but never to have remained to plunder the house of the person who had fallen a victim to his passion.

2d. He assserts that he recollects of giving only one blow—that on the right side of the head; and says that, as he cannot remember of striking a second time, he must have done it in the blind passion he was in at the moment. But if Millie had been struck twice successively, and without having time to move, this would not account for blood being found on the web above him*—Henderson, therefore, says that, on returning to look at the body the day after, he found evidences of Millie having moved after he had left him, and dabbled the web with blood in his efforts to rise. This is utterly incredible; and, indeed, impossible: after two such strokes as Millie had received, no man could move a limb,

* It is supposed that Millie was sittting, as Henderson has described, beneath the loom seat.

much less attempt to rise. The only way in which it is possible to account for the appearances, is, that after the first stroke on the right side (before the ear), Millie had struggled and attempted to rise (a thing which we know to be possible*); and that then Henderson had struck him a second time behind the left ear; injuries on that part of the head, we have the best authority for stating, affect the nerves of voluntary motion much sooner than those towards the front; so that this second stroke was likely to have caused instant death.

Henderson, however, recoiled from the supposition that he had struck his victim twice;—the second time amid the convulsions of dissolution: and persisted in the story he had told in his confession to the magistrates.

In making these observations it will be readily believed that we are actuated by no severity or harshness towards the man who, ere this can be read, has made atonement to the laws of his country. We intend merely to show that a man who can commit murder is hardened to all other wickedness; and that he will even go down to the grave with deceit in his mouth. A distinguished clergyman of Edinburgh, who has had frequent occasion to see criminals under sentence of death for murder, mentions that this trait is common to all who have committed that crime: they always recoil from the idea of their guilt being supposed to be premeditated; and uniformly endeavour to give some fabricated account of the instrument or manner in which they committed it. In place of the murderer being a bold, unbending, and fearless character, as the world generally believe him, the accurate observer whom we have mentioned, has always found the description of the sacred writings more true to nature. The murderer is there called "the bloody *and deceitful* man:" he who can shed blood, has a mind fitted for all deceit.

While in Jail after his sentence, the behaviour of Henderson discovered little that was peculiar. He listened to the instructions of the clergymen who attended him, with an appearance at least of attention; and endeavoured, it may be hoped, to profit by their instructions. His demeanour in their presence was rather marked by a kind of decent seriousness than by any expressions of contrition

* A man lived in Edinburgh Infirmary some days after the foot of a metal pot had struck in the fore part of the scull, and had penetrated the brain.

or distress. That he had to some extent recalled his early feelings of piety, may be supposed, from the purport of the following letter, which he wrote to one of his acquaintances during the last days of his life.

DEAR ——,

You will receive these few lines from your dying and unworthy friend, who is now near his journey's end; for soon I will be numbered with the dead. My advice to you is, to take a warning by me; for now I am brought to a disgraceful end, by keeping bad company and not paying that respect to my parents that I ought to have done. Dear ——, The hardest work that a man can do is to repent and die, or to fall unto the hands of the living God, where the worm never dieth and the fire is never quenched; but blest are the humble souls that see the blood of Christ, which is a healing balm for all their sores. Dear ——, I would advise you to remember the Lord's day, and do not violate the laws of your God nor of man, to bring you to every shame or disgrace as I have now done: but it is said, come unto me all ye that are heavy laden and I will give you rest; though your sins be like crimson, I will make them pure as wool; though they be red as scarlet, I will make them white as snow. Dear ——, This will soon be over, with regard to all earthly pain; but it is always natural for us to mourn for them that we loved, for nature will be nature still. But I am going to the land of forgetfulness: but I hope it will be a place of everlasting glory: but be sure and come and see me, when this comes to your hand if you can.

Dear ——, Your attention to this, the last request I shall make of you, will much oblige,

Your dying friend,

JOHN HENDERSON.

Cupar Jail, 19th Sept., 1830.

We subjoin other two letters of the same tenor. Nothing is altered from the original except the spelling.

Cupar Jail, 15th Sept. 1830.

You will now have heard of this most disgraceful end that I have brought myself to—a disgraceful end with my own bad conduct, and bad company; and I doubt not but the eyes of the world is now upon me with regard to what I am now charged with, and condemned for to undergo the last sentence of the law: no doubt but the sentence is just, and highly esteemed by the public in general, for both by the law of God and the law of man, it is punished with death, and is highly applauded by both; but I hope you will take a warning by me; and would advise you for to remember the Sab-

bath day, and do not break it as you have seen some do that I will not name; and do not violate the law of God nor of man as I have done, so as for to bring you to public shame and disgrace; but remember the words of our Saviour, where he says, "Come unto me ye that are heavy laden and I will give you rest, for though your sins be red as crimson, they shall be made white as snow." Dear ———, the dawn of that important day shall soon be here, that shall either raise the soul to the highest pitch of enjoyment, or sink it to abject misery, where the worm never dieth, and the fire is never quenched: for they are deep in wisdom and mighty in strength that will harden their heart against the living God and prosper.

Dear ——, keep this as a token of remembrance of your

Dying and unworthy friend,

JOHN HENDERSON.

Cupar, 19th June, 1830.

DEAR COUSIN,

You will receive these few lines from your dying Cousin, who now has brought himself to a disgraceful end by his own folly, regardless of my country or my friends; but now my days are few; and I soon will be to this world as if I had never had been; and am going to the land of forgetfulness; but I trust it will be a place of everlasting glory. But, William, take a warning by me; and add no sorrow to your parents hoary age as I have done, for to bring their grey hairs with sorrow down to the grave. My Dear Cousin, it is the hardest work for to repent and die—it is the hardest work that can possible be put to a man, for to look back upon their past sins, repent of them, and die. But, William, in the darksome pit of the grave must now confine me * * * * * and the cold earth must be my lodgings, and dust and corruption my covering; but I will be soon stretched upon my weary bed, where death, thy quiet and refreshing sleep from all the frailties and toils that dwells in this weary world, will free me; for there the wicked cease from troubling, and there the weary shall be at rest.

This is my long and final adieu, till we meet in happier regions; the springs of life are running low, and nature tired with human changes * * * * *

Adieu, Dear Cousin: I know you will pity your unfortunate Cousin,

JOHN HENDERSON.

The reader will draw his own conclusion from the style of these letters. Could we believe that the writer felt the real force of all

that he says, there might be the best hope that his temper of mind was not unsuited to his situation. Though the tears and contrition of a few weeks cannot give assurance of amended conduct were he to live; they shew at least (if he were sincere) that he did not go to death, braving the justice of the law which condemned him here—or the God who is to judge him hereafter.

He was attended during the whole period of his confinement, by the clergymen of different persuasions in the town, to whose religious cares he expressed himself indebted. He was anxious that he should not be thought to have at any time defied or set at nought the institutions of Christianity, however much he had in his conduct outraged its principles. On one of the last days of his life he expressed the greatest anxiety to contradict some rumours which have got into circulation concerning his former conduct. One of these was, that he was connected with the mock-representation of the crucifixion, which we have formerly mentioned as having been performed by some wretches about Dunfermline: and in this, as it took place while he was quite a stripling, and yet in the habit of listening to the instructions of his parents, there is not the slightest reason to think that he was concerned, or that he even knew of it. Another rumour equally groundless was, that he had some knowledge of the death of a man who was said to have been killed some years ago at Dunfermline. This person, it is said, was thrown or fell, from a rock in the neighbourhood, and was found dead: a man was apprehended on suspicion, but no evidence was produced against him: Nor is there the slightest ground for connecting Henderson's name with the occurrence, of whatever nature it may have been.

These rumours, and many others equally absurd, have gone abroad concerning this man, and from the popular excitement, as well as the atrocity of his known crimes, have met with ready credence. In contradicting them we cannot but notice how absurd are the complaints which are usually made—and which were made particularly in this case—concerning the licence of the press. It will be found that those who derive their information from the public papers on subjects like these, are uniformly better informed, less prejudiced, and calmer in their feelings, than others who are guided by the rumours of the country. The press does not so much exaggerate public feeling, as correct its exaggerations.

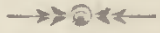
The rumours which have been put in circulation as to his remarks on the prospect of death, have been equally preposterous. It was said that he spoke of it, not only with composure, but with a kind of drollery. This is shocking; and it is right to do justice even to the greatest criminal. Towards the last days of his life he often wept bitterly: and when the preparations were making for erecting the scaffold (which he heard distinctly in his cell) all his efforts at composure were ineffectual.

TRIAL AND EXECUTION

OF

JAMES HAY,

IN THE YEAR 1743.



THE following account of a trial and execution which took place in Cupar about ninety years ago, will give our readers a curious picture of the manners of that time, as well as of the forms of legal procedure. We have been lucky enough to obtain the original minutes of trial before the Sheriff, from which we subjoin extracts: and the traditions in different quarters as to the occurrences at and before the execution, are yet sufficiently fresh to enable us by piecing them together, to give a connected picture of the whole.

The culprit in this case was a man of the name of James Hay. He was a native of Aberdeenshire; but he was believed to be connected with some powerful gang of Highlanders, whose depredations at that time were still the terror of the low country.* He seems at any rate to have been a practised rogue: he and an accomplice of the name of Gordon, having laid a plan for stealing two horses at Flisk-milling, they watched their time cautiously, got in about the farm-steading and stable at night; and strewing the pathway for some distance with straw, led off the two animals without noise or alarm; and as the farmer innocently says in his declarations "he left the stable door that night steeked with a pin as usual; and next morning found it open, and there was stolen out of it a black horse, and a dapple blue grey mare." The honest man was no doubt much astonished

* Another account represents him as a native of this neighbourhood; and intimates that he had used the horse merely in order to assist him in escaping arrest for debt, without intending to steal it. This story has only arisen from a kind of popular sympathy which seems all along to have viewed the punishment of death as too severe for his crime.

at such an unexpected change in the state of his stable: but the rogues had not left him much time for wonder. Having obtained some kind of information, he was enabled to trace their road as far as Auchtermuchty; and thence by the marks of the horses, he followed on to Torrie. It is said that both parties chanced to lodge here for the night; and that the farmer's suspicions were roused by hearing the horse which he rode, neighing to another in an adjacent stable, as to an old acquaintance. However this may be, the horses were found here; and Hay and Gordon who were found with them, were both taken into custody and lodged in the tolbooth of Dunfermline. They were put into separate rooms, and examined separately; both said they had bought the horses, but gave different accounts of the circumstances. Next Sunday, the jailor, on returning from church, found that Gordon had hanged himself in his cell. This was about the first of February: the trial came on in June, and was held before the Sheriff.

We subjoin the following extracts from the minutes of trial.

MINUTES.

The Shirreff haveing considered the criminall letters at the instance of Thomas Thomson, procurator-fiscall, against James Hay, pannell, finds the pannell's haveing, time and place lybelled, broke open the stable door of David Allan, tenent in Fliskmillan; or his haveing stole therefrom the horse or horses mentioned in the said letters; or his being art or part of one or other of these crimes—relevant to inferr the pains of law; and remitts the pannell and lybell, as found relevant, to the knowledge of ane assize. ROB. HALKERSTONE.

Thereafter the Shirreff named the following persons to be assizers:—

John Thomson, merchant in Cuper; Robert Grieg, writer, there; Robert Gourlay, tenent in Denhead; David Melvill, yor. in Ceres; Robert Wallance, merchant in Cuper; Thomas Melvell, tenent in Bowhouss; Oliver Barclay, tenant in Hiltervitt; William Hunter in Wester Pitscottie; John Smith, tenent in Kinnaird; Robert Bonthron, tenent in Dairsy; John Bonthron, tenent in Dairsy; Thomas Miller in Todhall; James Fermer in Kingask; Thomas Ramsay in Baldinny; William Wilson in Carskirdo.

ROB. HALKERSTON.

The above assize was sworn by the Shirreff; and the pannell declared he had no objections against any of them.

The Procurator-Fiscall thereafter, for proveing the lybell, adduced the following witnesses.

ROB. HALKERSTONE.

Compeared David Allan, tenent in Fliskmillan, aged fifty and upwards, married, purged of partiall councill, solemnly sworn and interrogat, depones, that the night betwixt the twenty-sixth and twenty-seventh days of January last, the deponent's stable door being sticked at night with a pin as usuall, he found it open in the morning, and that there stole out of it a black horse and a daple blue gray mare, which were put in the stable the night before, and belonged in property to the deponent; and he haveing in the morning missed said horse and mare, went in queist of them; and upon the twenty-eight day of January got nottice that they were in a house belonging to John Humble in Torrie, where the deponent found them about eleven of the clock that day; and haveing chalenged the horses to be his, the pannell fled, and being immediately apprehended, was brought back; and being asked how he came by these horses, pretended he got a ride of them from his neighbour; but when his neighbour was likeways apprehended, he, the pannell had nothing to say for himselfe. And being further interrogat if he was present at the pannell's examination before Sir George Preston of Valleyfield, depones he was; and that when the pannell was then interrogat how he came by the horses, he said that his neighbour and he had bought them upon the road for a guinea the piece: whereas the deponent thinks they were worth five guineas each, being offered that sum for the mare the day he brought them home, *causa scientiæ patet;* and this is the truth, as he shall answear to God. Further depones, that he judged the horse was also worth five guineas; and this is also truth, as he shall answear to God. DAVID ALLAN.

[The other witnesses are John Donaldson, a farm-servant of Allan's, who first observed that the horses were missing; Michael Kinloch, tenant in Newton of

Falkland, who gave some information, or joined Allan in the pursuit: John Humble, a weaver in Torrie, at whose house Gordon and Hay had taken "quarters" for the night, and where they were discovered: James Philp, and Thomas Meiklejohn, residents in Torrie, who assisted in apprehending them when they fled: all the material evidence of these witnesses is recited by Allan. The next is the Jailor.]

Compeared Alexander Richardson, jaylar in Dunfermline, witnes, aged sixty and upwards, married, purged of partiall councill, solemnly sworn and interrogat, depones, that upon the twenty-eight day of January last, the pannell and William Gordon were committed prisoners in the tolbooth of Dunfermline, by warrand from Sir George Preston, justice of peace, for Horsestealing; that they were put in seperate rooms in the prison, and upon the Sunday thereafter, the deponent haveing gone into prison in the morning, saw Gordon well; and haveing again gone into prison after sermons, found that he had strangled himselfe, *causa scientiae patet*, and this is the truth as he shall answear to God.

The Fiscall declared that he had concluded his prooff, and the pannell being asked if he had any witnesses to adduce for his exculpation, declared he had none, nor had he any thing to say for himselfe.

The Shirreff ordains the jury to be inclosed, and that they return their verdict, to against four o'clock afternoon, in this place, to which time he adjourns the court and ordains the jury then to attend with their verdict, remitts the pannell to prison. ROB. HALKERSTONE.

Eodem die, hora quarta post meridiem, Curia Ligitime affirmata.

The above assize haveing inclosed, did choise John Thomson to be their chancellor, and Robert Grieg to be their clerk; and haveing considered the indictment, pursued at the Procurator Fiscall's instance, against James Hay, pannell, the Shirreff of Fife, his interlocutor thereon, with the depositions of the witnesses adduced for proving the indictment, they, all in one voice, find it clearly proven, that upon the night lybelled, David Allan's stable was shut in the ordinary way, and broke

open next morning, and a black horse and a blue-gray mare, both which belonged to him in property, were stole furth of the said David Allan's stable: and likeways find it distinctly proven, that when David Allan and Michaell Kinloch, two of the deponents, went in search of the said horses, and traced them from place to place, found them in custody of the pannell, James Hay, and the deceast William Gordon, at John Humbell's house, weaver in Newmiln of Torrie, another of the deponents; that when the pannell was chalenged for stealing the said horses, he fled, but was immediately pursued and apprehended, that when the pannell was carried before Sir George Preston of Valey-field, one of his Majesty's Justices of Peace, and examined, he did prevaricat, and could give no reasonable account how the pannell and Gordon came by the said horses. In witness whereof, thir presents are subscribed by our said chancellor and clerk, in our names, place and date forsaid.

(Subscribed) Jo. Thomson, Chancellor.
Robert Grieg, Clk.

The Shirreff, haveing considered the foregoing verdict of Assize, returned against James Hay, pannell, he, in respect thereof, by the mouth of John Bruce, Dempster of Court, decerns and adjudges the said James Hay to be taken, upon Thursday, being the second day of June next, to come from the tolbooth of Cuper, to the Muir of Cuper, and ordinary place of execution of the said burgh of Cuper, and there, betwixt the hours of two and four of the clock afternoon, to be hanged by the neck on a gibbet till he be dead, and ordain all his moveable goods and gear to be escheat and inbrought to his Majesty's use, which is pronounced for doom.

Rob. Halkerstone.

In consequence of this sentence Hay was ordered to remain in Cupar jail, for execution, from the 20th of April to the 2d of June,—a much longer period than is now allowed. His punishment appears to have been viewed in no very favourable light by the people, and was probably rather awarded to check a crime becoming unusually prevalent, than from any peculiar enormity in his case. The room in which he was confined may yet

be remembered by those who recollect the old jail of Cupar; one of its windows looked by an iron grating into the street, and from thence Hay is said frequently to have addressed the people to move their sympathy. He was a stout "buirdly" man, and that such a good looking fellow should be hanged for horse-stealing, seems to have gone against all the notions of the time. "O that luckless beast," he used frequently to ejaculate through the grating; and the hearers outside appear to have sympathized with him heartily. This feeling, in which even some of the magistrates are said to have joined, came to such a height, that, by some connivance or other, Hay got means one day to shake his feet out of the shackles, if he had any; and to reach the door. No explanation can be given of how this was effected; but once fairly on the street, Hay shewed the officers a pair of clean heels, and thought himself safe. He sped like lightning off the street, down the Bobber-wynd, and across the Eden. While passing some doors in his way he was spied by a writer named Beveridge (a person, however, whose memory seems to be in no great odour), who called out to him, "Run, Hay, run for your life:" an ejaculation which, it may be supposed, was intended rather for encouragement than advice. Hay run accordingly, and made right across the Eden, at a ford in the former course of the water, not far from the site of the present jail. While passing the river he was spied by two men, James Buist and Henry Duncan, who, it is said, were playing at bowls on the Fluthers green.—These two seemed to have no touch of the general sympathy for poor Hay, and gave chase immediately. One or both of them seeing they had no chance of matching him in speed, pitched stones after him, one of which took effect on the back of his head, and tumbled the unlucky horse-stealer over into the water just as he had reached the bank; he fell, exclaiming, "O unhappy stroke," and was immediately apprehended, and made fast again in his former cell. According to popular tradition, which throughout the whole affair takes the part of Hay very decidedly, both Buist and Duncan suffered retribution for their uncalled for interference. The right arms of

both,—those officious arms with which they had stoned and foundered the luckless Hay,—having been rendered useless to each. They both entered the army; and Duncan had his arm severely injured by the bursting of a cannon fired at a party of Highlanders from Stirling Castle; while Buist had his right hand chopped off by a dragoon, after having run some risk of being shot for deserting. They are both recollected by people yet in good health and vigour; Buist, from his lame arm, was called "Handy Buist" all his life after; and the other, from the same cause, was called "Handless Henry."

The fancy among the common people that these accidents happened as a punishment for preventing Hay's escape, shews how strong must have been the prejudice against his execution.

To return to Hay: he was re-conducted to prison; and had now no resource but preparation for death, or the hopes of a rescue on the day appointed for his execution. The gibbet on which he was to be hanged, was cut from a row of trees which at that time grew along the forelands of the street, near the foot of the Provost Wynd, and whose roots remained within the memory of people still living: the tree itself happened to be in front of a house which belonged to an old lady of the name of Menteith. Mrs Menteith opposed herself most perseveringly to their cutting down the wood for such an unlucky purpose; and even sat down at the roots to prevent the workmen from thus at once destroying and profaning her trees. The officers of justice are however proverbially stubborn, and the poor lady found her scolding and tears equally ineffectual. Her forelands were obliged to furnish Hay's gibbet, and it was erected at the place of public execution immediately. This spot is still marked by a clump of trees on Cupar Muir, not far from the Quarry.

On the 2d of June, therefore, preparations were made for Hay's exit: as great apprehensions were entertained of an attempt at rescue by some of the parties with whom he was connected, a detachment or troops were brought to the place, to escort him from the jail to Cupar Muir. The Military procession passed along the street

enclosing Hay in its centre; he walked between two clergymen, behind a cart intended to return with his corpse: he was dressed in his usual clothes, but had a white shirt thrown over his coat. His firm bearing, and stout manly appearance, interested the people greatly; and one of the military gentlemen, it is said, could not refrain from shedding tears. Whether the sympathy of the people made them wish such a thing, or whether there had been actual plans laid for it, cannot now be said, but the strongest persuasion prevailed to the last that he would be rescued by his friends; and Hay himself, it is said, looked for it every moment. A vast crowd was assembled on the ground; and amongst these were a number of well mounted prying strangers, for whose presence none could account. The unexpected presence of the military, however, controlled all the motions of the people, so that however strong the general sympathy, no attempt could be made from any quarter. The general disappointment at the issue of his former escape, shews what connivance he might have expected, had another been practicable here. We can scarcely conceive such things in the present day or believe them: such is the change of manners and institutions in 87 years.

Hay was accompanied, as we have said, by two clergymen, the Rev. Messrs Boes and Ballingall. When he arrived at the place of execution, he accepted of their religious services; but continued, it is said, the whole time to look to the westward, with intense anxiety, in expectation of some attempt on the part of his friends. Having at last, however, been obliged to mount into the cart, he addressed a few words to the crowd, saying, "Gentlemen, you all know where you are to lodge this night; but I go, I know not where."

The cart was then drawn out from beneath the gibbet, and Hay suffered the punishment of a horse-stealer.*

* When the body was cut down, a cry arose among the multitude that Hay was not dead, and after a little, that he was seen to move. An old woman at Easter Fernie, who is now about 96, recollects of her elder sister, who had been present at the spot, coming home, and saying that she had witnessed this circumstance: and the country

The bones of Hay were buried about twenty-two years ago at Durie. The skeleton had come into the possession of Dr Menzies of Durie, and was preserved by him till near the time of his death, which happened about 1810. On rummaging out his museum one day, he came on the bones, and gave them to his gardener to commit to the earth, mentioning whose they were. This gardener, Robert Loudon, is a hearty old man, now living in a cottage on Cupar-Muir.

people, whose traditions relate chiefly to the execution, as those of the town's people do to the escape, are all firmly convinced that the *doomster* had to finish his work in the cart—which is not perhaps to be wondered at, considering his awkward apparatus in those days.—Concerning the latter personage (the doomster or hangman) the following memorandums are found in the Session book and the records of the Town Clerk of Cupar:—

"John Fenton, hangman of Cupar, was buried in Cupar Churchyard, on the 12th day of April, 1741."

"1741.—*Nov.* 16.—It being represented that John Bruce was willing to accept of the office of town-keeper of this burgh, and to do every thing relating to the office of hangman, therefore the Council did, and hereby do admit him to the said office during the Council's pleasure; commencing his entry thereto from Martinmas last, and entitle him to the salary and other emoluments arising from the office."

Cupar: Printed at the Fife Herald Office.

THE EXECUTION,

September 30.

On Wednesday night, Henderson, though still remarkably composed, was little inclined to sleep, and remained engaged in reading and prayer till near twelve, at which time Kennedy (the jailor) prevailed on him to take some rest; and he accordingly went to bed. He remained in bed, and slept a little, till near four, when he arose, and expressed a wish to be dressed as he was to appear on the scaffold. From that time, till breakfast, and during the forenoon, he engaged in devotional exercises, and heard various passages of the Bible read by those who were in attendance on him. As the hour of execution (two o'clock) approached, he asked to see several of the gentlemen, the magistrates in particular, who had called on him, or paid him attention in his cell. To them he expressed feelings of deep gratitude for the kindness with which he had been treated, and expressed his conviction, that the opportunities they had afforded him of obtaining religious instructions from the clergymen who had visited him, had not been in vain. We subjoin a letter to his brother, which he wrote in the course of the forenoon—the last time, indeed, he had a pen in his hand.

Dear Brother,—This day I leave this weary world, and am going to the land of forgetfulness; but I trust in God it will be a place of everlasting happiness to me. Dear Brothers, I hope you and all my friends will take a warning by me, for I now have brought myself to a disgraceful end by keeping bad company, and also disregarding the advice of parents: so seek the Lord while he is to be found—and call on his name while he is near, for they are deep in wisdom, and mighty in strength, that will harden their heart against the living God and prosper.—I am, Dear Brother, Yours,

JOHN HENDERSON.

Somewhat before two o'clock, the Rev. Mr Birrel, with other clergymen of the town entered his cell, and remained with him for a time in conversation and prayer. Shortly after, they entered upon the religious services of the occasion without leaving the cell. The Rev. Mr Watson prayed first, and was followed by Mr Birrel; after which Henderson requested that the 30th Scripture Paraphrase might be sung.

Come, let us to the Lord our God
With contrite hearts return.

In the meantime the crowd had collected outside the Jail in immense numbers. The execution had been appointed to be at the back of the Jail, where the ground, farther to the rear, rises in a kind of natural amphitheatre, to the extent of some acres. The drop was erected nearly in the centre of this rising ground, close to the wall of the Jail back-court; and was in full view of the spectators, who crowded the semicircular elevation in its front. From the back windows of the Jail, the numbers of human beings exposed to view at once, was extraordinary—there could hardly be less than twenty thousand: there was no appearance of tumult—but all awaited in patient, yet fearful expectation, the appearance of the poor wretch on the scaffold before them. There was no spot from which the

apparatus of death was not distinctly seen: the frame of the gibbet, erected above the floor of the erection—the rope in preparation over it—and the stool on which the fated creature was to take his last stand. The imagination of the crowd was active in supplying the rest of the circumstances; and the conversation that passed among the country people, in the anticipation of a scene so new to them, yet so dreadful, was deeply interesting to an observer of human nature.

There was, however, no expression of anger or of vengeance; but all, assured that the law had uttered its unalterable sentence, and that the claims of justice would be satisfied, awaited the end with an expression of sympathy for the unfortunate being who had drawn down on himself such a punishment, rather than with any bitter recollection of his crimes.

The spectacle presented by the crowd was singular and picturesque. Composed chiefly of the lower classes in their most decent attire, and ranged full in view of the Jail widows on the green amphitheatre we have mentioned, it exhibited a variety of colours, of faces, and of figures flitting on its highest outskirts, which was sufficiently striking. A number of females were present, (what will not curiosity do?) either intermingled in little white groups among the darker crowd of men, or fringing the distant parts of the assemblage with a retiring outline—which shewed at once their curiosity to witness the spectacle, and their horror at approaching near it. The walls of some little gardens immediately on the back of the Jail court, were studded with rows of men with their faces intent on the scaffold, and within a few yards of it.

The anticipations of all this vast crowd were delayed rather longer than had been expected. Henderson, after the religious services of his cell had been finished, wished to take leave of Kennedy and his family, and to express his gratitude for their sympathy and kindness: the children sobbed and wept as he parted with them; and as he shook hands with Mrs Kennedy, (who is a most considerate, feeling woman,) his own feelings were excited to the utmost. Some others also he called, and requested to take their last farewell. He at last mentioned that he was ready; his arms were pinioned; and he was conducted from his cell to the jail door, and up the stair of the scaffold supported by two officers, and accompanied by the Clergy and Magistrates.

When he appeared on the scaffold, there was no expression of exultation or contempt on the part of the multitude, as had been partly expected; but a decent, or rather a kind of awe-struck silence.

When on the scaffold, the Rev. Mr Birrell engaged for some time with the criminal in prayer.

Mr Birrell then, at Henderson's request, stept to the front of the scaffold, and addressed some words to the assembled multitude, nearly to the following effect:—"I am desired by the criminal to say, that he is satisfied of the justice of the sentence which has brought him to this scaffold: and he begs that his fate may be an example and a warning to all, against keeping bad company; against the evil of forgetting the counsels of your parents; and against the great evil of neglecting the Sabbath day. He says that he dies in peace with all men; and hopes that, through the merits of a Saviour, he himself will die in peace with his God."

Mr Birrell then added, that the criminal desired the audience to join with him in singing the 5th Scripture Paraphrase—

Now, with my God I leave my cause,
From him I seek relief.

The Magistrates and Clergymen began now one by one and at intervals to leave the scaffold: preparations were making for the last scene.

The cap was drawn over the head of the unfortunate criminal; and the executioner having adjusted the cord, a handkerchief was given him, which he was to drop as a signal. In this situation of awful preparation he remained for several minutes, uttering devotional ejaculations: To the officer who was nearest him (Kennedy), he said, "I believe the hour is come;" Kennedy answered in an accent of kindness, "When you are ready"—after a little, he said again, "Only a few moments more: Oh, I am afraid to go."

After some moments he dropt the handkerchief—and the drop fell.

From the force with which he fell, it was believed that instant death would follow; he lifted his hands, however, with the palms outspread, more than once, and appeared to struggle much. These struggles were, however, merely convulsionary; there could be no consciousness of suffering after the first few moments. The scene closed about five minutes past three o'clock.

The multitude shrunk almost audibly, and held their breath in horror, when the man fell and struggled: one young man fainted; and we have no doubt there were others, besides females, in a similar situation.

The crowd immediately dispersed.

The following letter, or address, was written at Henderson's request, and signed by him in the course of the forenoon:—

Cupar Jail, 30th September, 1830.

I die in peace with all mankind—asking forgiveness from all whom I have injured, and heartily forgiving all who have injured me. I also return my hearty thanks to the Magistrates of Cupar for their kindness; and also to Mr Kennedy, the jailor, and Mrs Kennedy, for the kindness and attention they have given me since I came here. But, above all, I return thanks to those who have been instrumental, by the Grace of God, in enlightening my mind in the knowledge of the Scriptures: and, in particular, I return my sincere thanks to the Reverend Mr Birrel and Mr Watson; and, as I cannot express what service they have done me, I leave it to the Lord to recompense them, knowing, that for his sake, they showed me kindness.

JOHN HENDERSON.