CRIMINAL SESSIONS. I OLD COURT-HOUSE. - FRIDAY, OCT. 17. 1862

(Before his Honour Mr. Justice Molesworth,)

'**THE** **GREENSBOROUGH** **MURDER**.

Josiah Grimshaw was arraigned on the charge that he on the 24th, September last, did murder one John Mitchell, at the township of Greensborough, near Heidelberg, He pleaded " Not Guilty."

Mr. O'Loghlen prosecuted on behalf of the crown and Dr. Sewell and Mr. Aspinall appeared   for the defence

Mr. O'LOGHLEN opened the case to the jury by a succinct narration of the facts he proposed to   prove by evidence. He laid a plan of the scene of the murder before the jury, and explained the relation of the various localities mentioned, He then called the following witnesses: -

Johanna Mitchell examined by Mr O'LOGHLEN. I am the widow of the deceased, who was fifty years of age when he died. I know the prisoner. On 24th September last my husband was "at work at Mr. Brock's, two miles off. He returned home about eight p.m., for my clock struck just as he came in. I and my children, Margaret, Henry, Mary, and Ellen Mitchell, were in the house then. The three last children are respectively aged eleven, eight, and   five years. My husband just sat down by the fire for about two minutes, when the dog barked.

 I said, " There must be somebody out." My husband got up and went to the door, which opened   on the paddock. "There's somebody about," he   says " I can smell tobacco." In a second after he said, "I can see somebody going back by the stable." I said, "You'd better let the dog loose which he did, through the same door.

 He came   back again, and sat down for a few minutes, My   daughter Margaret then said, "There's a man, coming up to the little gate." That was the gate leading to the water. My husband said, "What's that you say?" I said, "There's a man coming."   My husband then lit the lantern-candle, and took it with him to the door. Just at this time there was a snatch at the latch of the door which led to the garden and little gate.

 My husband went out through the front door, where the noise came   from, and came round by the dog-house to the back door. As he came back, he said, "I can see no one." Then he went down to the fire-place, and took a piece of iron, a frying-pan handle in his hand, and carried it with him to the front door. He went out to a little thick-set hedge outside. Then I heard him say, "Halloo what brought you here?"   He must have been about ten yards from the house. I heard no answer at that time, and in a second my husband screamed.

At his request, Margaret had shut the door behind him, when I heard the scream, I opened the door,  and asked who had done it. He was close by, having come up towards me as I stood at the door. As far as I could understand him, he replied, "I don't know."

 At that time I saw a man standing at the back of the hedge. My husband said, "All you have to do is to look to your family, for I am dying." I said, "Whatever have you done, you wretch, to kill a man?" The man by the hedge replied, "If you don't go in to your family, I'll serve you the same," He spoke quiet and low; but seeing my husband with death in his face, I paid no attention to recognizing the voice.

 The night was starlight, and I saw that the man who had spoken wore a cabbage-tree hat, and a dark coat. I could not see his shirt", and he kept his head hid. I shut the door next, and my husband fell at my feet, I did not examine him till I saw he was quite dead. I had his head in my hands, resting it.

The first person who came to the house after this was Charley Partington, he came at about five a.m. I left the body where it was. It was about four o'clock in the morning that I sent my daughter out, to let the neighbours know what had happened. I had seen the prisoner three times about the place before this, but not on that day.

On the 2nd of September the prisoner came to my house, dressed in disguise, like that is, with old clothes over his every-day clothes. I thought at first that he was a Chinaman, and. was going to sing out to my husband, when prisoner called me back, and said, "Don't you know me Mrs. Mitchell?" I said "no" he said." Where's Margaret?" I said "You can't see her with those old clothes on; you'll frighten her," he took the old clothes off, and I allowed him in. He then said that he had come to know if Mrs. Mayger had turned her out of her place through speaking to him. My daughter said "no" and that Mrs. Mayger and she had parted good friends. I said, "I hope Mr, Grimshaw you are satisfied?" I also said, "I hope you will never come again?" and then he went away, this was the last time I saw him near the place.

To Dr. SEWELL.-We parted good friends. I have known him some time, and have been glad to say "Good morning," and all that sort of thing to him. I knew nothing about any attachment of his to my daughter, who told me nothing. Margaret's bedroom adjoins the sitting-room, where we were. There are a lot of creepers on the veranda, but not on the window. The verandah is about five feet wide and seven feet high. Margaret was in the bedroom when my husband came in.

She mentioned no person's name that night. She had said nothing to me about the prisoner up to the time the police came. I said to her before, "Margaret, did you think that man was Mr. Grimshaw?" She said “mother, I don't know." I don't know if the police threatened to put her in handcuffs, but I know they examined her very sharply.

Dr, SEWELL.-How long was it before your daughter mentioned Grimshaw's name, as having seen him that night?

Witness.-It was about five o'clock in the afternoon, and the police had come at five o'clock in the morning. Margaret had not been with the police all the time. My husband knew Grimshaw well, and had seen him often as a neighbour. We had had some potatoes stored below the doghouse, about four yards from the stable. Some of these potatoes had been stolen,

Margaret Mitchell, examined by Mr. O'LOGHLEN.-I am the daughter of the deceased, and am eighteen years of age. I remember June last, year I went to Mrs. Mayger's service. I saw the   prisoner there. I had seen him before, but had never spoken to him.

Mr. O'LOGHLEN.-While you were at Mrs. Mayger's did anything happen between you and the prisoner ?

Witness.-No, sir. I left Mrs. Mayger's on the 4th August.

Mr. O'LOGHLEN - Did he ever make love to you, did you have any conversation with him?

Witness.- Yes, sir.

Mr. O'LOGHLEN.-What was it?

Witness (after a pause).-He pulled me about with his hands.

Mr. O'LOGHLEN.-When was this?

Witness.-The second day I came there.

Mr. O'LOGHLEN.-Had you any private conversation with him?

Witness.-No he wanted to, and I would not let him. I had no conversation with him on any other day.

Mr. O'LOGHLEN.-Were you ever in the kitchen with him on any other day?

Witness.- Yes sir. He put his hands on me three times. These three times took place in the kitchen. They occurred on three different days. It was about a fortnight between the first and second time, and a week between the second and third time. He put his hands about my waist, but did nothing else. He said nothing then. No one was present. I left Mrs. Mayger's on August 4; and I never spoke to him afterwards but once, and that was at home.

He asked then if Mrs..Mayger had said anything about him; and I said  "No." I saw him every day after the 4th August, at his own home. He lives on the other side of the river, and I saw him there. I was not with him. He was only over with me once. I remember the night of my father's death. My father came in from work at about half-past eight. He took his chair and sat down by the fire for about two minutes, when the dog barked.

The dog barked for about a minute, and he took no heed of him, the dog got worse, and father went out. I was in the room all this time. Father came in again, saying to mother that he saw a man go by the stable. Mother said, "You'd better let the dog loose." I remained in the sitting-room all the time. Father sat down on his chair again. I was ironing clothes, and father sat down till I had done.

When I had done, I took the clothes into the bedroom, as I went in I looked through the window, and I saw a man standing by there. I know him it was Grimshaw, the prisoner, he made no signs to me, but he was smiling. He was looking at me. I put the clothes on the bed and when I turned round he was gone prisoner wore a cabbage-tree hat. I am sure it was him.

I went back to the sitting-room, but I said nothing to my father or mother, in about a minute and a half I went back to the bedroom and put the curtain down at the window, I looked out at a smaller window and I saw a man coming up the path from the river where the little gate was. I know it was the prisoner, dressed in black he had on a black coat and white shirt. I am quite sure it was the prisoner. I watched him till he went on the verandah, when I went back to the sitting-room, and told my father there was a man outside. I did not say who it was, because I did not like.

I heard a noise at the latch, my father said, '" Halloo!" My mother said, "Who's there?" but there was no answer, and I heard the footsteps go from the door, they went quickly. My father took a candle and went out and returned in a minute, saying "I can't see anything." he told me to light the lantern, which I did.

He then took the lantern and poker and went out to the front door he was not out a minute when I heard him say "Halloo! what are you doing here?" then I heard him scream. Mother opened the door, and my father came in, Mother asked him who it was and he said he did not know he said nothing else but fell down and died.

To Dr. SEWELL.-I have known Grimshaw those five years.

Father and mother have known him as long and seen him often. When he put his arm round my waist at Mr.Mayger's, that way the first time I told no one, not my father or mother, nor Mrs. Mayger no human being new of it but him and me. I was not very angry, it was all he did to put his arm round my waist I had not seen the prisoner on the day of my father's death. I had had no communication from him, and did not know of his coming, I was always positive that the prisoner was the man I saw through the window.

Dr. SEWELL.-Always? , Witness gave no answer.

Dr. SEWELL.-What did you tell your mother?"   Witness.-I said I did not know who it was I told my mother a lie. I know Mrs. Brock and Mrs. Mayger. I had some conversation with Mrs. Mayger after my father's death.

Dr. SEWELL.-Did you tell her you knew your father's murderer? "

Witness,-Yes. .

Dr. SEWELL.-Did you tell her you had never seen the man before in your life?

Witness.-No, sir.     Dr. SEWELL,-You are prepared to swear that ?    Witness gave no answer.

Dr. SEWELL.-You loved your father?   Witness.- Yes. I saw my father dying, but I would not tell who did it. I was not bound to! That was my reason. I told the police.

Dr. SEWELL,-When the police came first, did you tell them? Witness did not answer.

 Dr. SEWELL.-When did you see the police?   Witness.-I saw them at my father's house before he was buried. I saw Mr. Lawlor and Mr, Ryall.

Dr. SEWELL.-How long were they examining you-two or three hours, or more? Which  was it!

Witness (after a long pause).-I don't recall  it was long time.

Dr. SEWELL.-Did you tell them at first who it was? Witness did not reply.

Dr. SEWELL repeated his question. Witness.-It was several hours before I told them.

Dr. SEWELL.-Did you not say at first you did not know who it was? Witness did not answer.

Dr. SEWELL,-Did you tell them before they threatened to put handcuffs on?  Witness.-No sir.

Dr. SEWELL.-But they did threaten you, did they not? Witness (after a pause).-Yes sir.

Dr. SEWELL.-Did you tell them one word about the prisoner before they threatened to take you to Melbourne in handcuffs?    Witness.-No sir.

To Mr. O'LOGHLEN.-In the morning, I told my mother I did not know who the man was; but I did know.

Henry Mitchell, son of the deceased, was next called. He was first examined respecting his comprehension of the nature of an oath. He professed to know the effect of telling lies, and could read and write; but when the judge asked him if he knew what he went to chapel for, he was unable to reply. His evidence was dispensed with.

Edward Benners Ryall, inspector of police, proved the exactitude of the plan of the scene of the murder, which he had tested by personal observation and measurement.

Charles Partington deposed that on September 25, early in the morning, he was going through his paddock to work, when he met Margaret Mitchell, who told him several times over that her father was" done for." He went to the house at once, and saw the deceased lying on the floor with blood on his shirt.

To Dr. SEWELL.-I did not see Margaret Mitchell in the house.

Emma Iredale, examined by Mr. O'LOGHLEN.

I live at Greensborough, and keep a store. I know the prisoner, I saw him about seven p.m. on the night of the murder. He was in my store, and I had some conversation with him. He bought some bread, sardines, and eggs. I remarked his appearance, but there was nothing extraordinary.

He told me he was going away very soon to Queensland, and should have gone before, but was detained by business. He told me I need not tell anyone that I had seen him on the township, The house of the deceased was on the same side of the river. He had a while shirt and black tie on, but that is all I remember of his dress.

To Dr. SEWELL.-I believe he is a widower, and has a daughter, who is Mrs. Mayger. I have   seen him several times on the loose, drinking,   His daughter keeps him quiet on such occasions. He did not say I was to tell no one of his drinking.

I don't know where he came from, he is in the habit of buying things for his own use, he lives close to his daughter's house, about a quarter of a mile from Mitchell's, on the other side of the river.

Archibald McDonald, examined by Mr. O'LOGHLEN.-I am a servant of Mr. Mayger, and live at another house 200 yards up the river, I know the prisoner. On the 24th of September last I slept, in the house where I generally sleep. I saw the prisoner that night, first at six o'clock, then a little after seven o'clock and last of all at about twelve o'clock, I was in bed the last time, having gone there about ten o'clock. I looked into his room as I went to bed, and saw a light there.

At about twelve o'clock, prisoner came into my room woke me up, and wanted me to go into his room and have a nobbler. I refused, saying I would have it in the morning. He said I should not get   it then. He asked me what time it was, and when I told him, he said he supposed he must have   been five or six hours in bed.

There is a ford across the river between this house and Mitchell's, I heard the prisoner go out next morning, at about daylight. The next time I saw him he was in custody. I was with the police when they searched the room, and found a knife there. I had never seen the knife before.

To Dr. SEWELL.-He might have had many things which I never saw I know that at six p.m., on the night of the murder, prisoner had just come off a journey. At that time, he was coming towards his room, our rooms are close together.

Dr. SEWELL.-How soon after you saw the prisoner, at a little after seven o'clock in the evening, did you see a light in his room. Witness.-I saw it a little before ten o'clock. I was never near it after I saw him till then he did not tell me he had been at Lintons, but I knew he had been there.

When I saw the prisoner at seven o'clock, he was going towards his house, and the next time I saw his house there was a light in it. No one lives in the house besides us two.

William Poulter, a farmer at Greensborough, examined by Mr. O'LOGHLEN.-On the morning of September 25, I was going to Melbourne with a load of wood. As I was lying on the top of my load of wood, about seven o’clock, I saw prisoner, and I rode on behind him for a mile or so. After that we said "Good morning." I said he was out early. He said yes, and that he was going to the railway station to get £25 from a man, after whom he had been twice before.

When we came to the Junction Hotel, prisoner said, "Come on  Poulter, and have a drink," and I went in with him, I said I would have brandy. he told me and the landlord he was going to Queensland in nine or ten days. I took the nobbler up and said, "Here's your good health, sir, and I wish you a pleasant journey" I went out then, leaving Mr, Grimshaw behind.

I had not got above four or five chains on the road, when I heard prisoner just behind me saying, "Mr, Poulter, Mr. Poulter" I turned, and saw him strike his breast he said, "Poulter, I have got some- thing very warm here. there is a young girl whom I would go through blood and water for"

Soon after, he said, "Poulter as soon as I get on board ship, and on the other side of the Heads, I shall be all right" when he said this he looked stupid as though he was half asleep, this was after we had had our nobblers. Again, he said, "Poulter, I can trust to you, you don't want to say you have seen me this morning or anything about what I have been talking."

Cross-examined by Dr. SEWELL.-The prisoner was very tipsy, he fell down in the drain once while I was talking to him, after he left the Junction Hotel, it seemed as though the liquor had got hold of him.

James Jolly, examined by Mr. O'LOGHLEN. -I live at Greensborough, and know the prisoner. On September 25, about four p.m., I saw him at my house. He said he had come to bid me goodbye, as he was going away. He said he was dry, and I gave him a glass of wine.

He had a glass of water afterwards. I asked him, what news in town? he said, "nothing fresh what’s the news here?'' I said, "Very bad news poor Mitchell has got stabbed" Prisoner said, "Who stabbed him?" I said I could not tell. "Have they any suspicion of the man he said and I replied that they had, but whether it was the right man they had thought of or not, they could not say, I did not name the man.

After that seemed very excited, he tried to light his pipe and could not, though I put a piece of fire in his pipe. He was very much confused.

To Dr. SEWELL.-We were talking about a mile from Mitchell's house. The Mitchells were neighbours. I have never been called upon to give evidence in this case till now.- I was sum- moned to attend. I was never examined at the inquest. I told this story first to the policeman,   whose name I don't know. I think his name is  Lawlor, Lawlor came to me; I did not go to him.

He came to me two days after the murder, and before the inquest; but the coroner would not examine me.

George Ardill, a mounted constable, examined by Mr. O'LOGHLEN.- On the 25th of September   last I went to the house where the deceased lived. It was in the morning, I found the deceased lying on the floor. There was a wound in his left side about three-eighths of an inch long.

The shirt of the deceased was cut, and there was blood on it. (The shirt and an inside flannel, all bloody, were produced and identified.) There were no other marks of violence, I found no sign of a struggle outside the house    I was present when Grimshaw was arrested in his bed.

I found the knife produced on the shelf of his room. As I took up the knife, Grimshaw said, " That knife has not been out of the room for some weeks." There were no marks on the knife but the small blade appeared to have been sharpened. ,

To the JUDGE.-I can't say which blade a man would use to kill another man with.

Peter Lawlor, a senior-constable stationed at     Eltham, examined by Mr. O'LOGHLEN.

I arrested the prisoner at Greensborough, on the River Plenty. I told him of what he was charged, and cautioned him about what he was saying. He said nothing for about five or six minutes but was shaking and trembling, apparently frightened. Then he said, "I did not do it." That was on the 25th of September.

I asked him where he had been that day, and he replied that he had gone to Melbourne to buy a pair of wellington boots. I questioned him where he had been the night before; that was the night of the murder, he said he could not account for himself from the time he left Mrs. Iredale's till he was in bed.

He said he recollected nothing after that till midnight, when he got up and went to McDonald's room. At the inquest, I told him that Miss Mitchell had recognized him as the party who had come to the window. This was three days after the murder. He said if that was the case, he could not account for it he had no recollection of it.

He afterwards added, "I was not in my proper mind, and I can't recollect it." I searched his room, and found the knife produced by the last witness on the table beside the prisoner’s bed. While I was inspecting the knife, and without my making any remark upon it, the prisoner said, "That knife has not been out of the room for a long time."

I could not remark any blood on the knife, which appeared to have been recently sharpened. I saw Margaret Mitchell the day after the murder. I saw her frequently, but never tried to handcuff her.

Dr. SEWELL.-Then she would be telling a lie if she swore anything of the kind?

Witness Yes most decidedly. She was under my examination several times during the day, at first, both she and her brother said they did not know who had done it.

Dr. SEWELL.-How long was it before a single word was said about the prisoner?

Witness:- It was not till two or three o'clock in the afternoon, some police had been there before I came.

Dr. SEWELL.-Were you one of those clever men who put the knife into the wound ?

Witness No sir I saw the doctor put it in Dr. SEWELL.-He made it fit nicely ? Witness.-Yes, sir.

In further cross-examination, this witness said his memory had not been sharpened about the conversations which he narrated now, but which did not appear in the depositions taken at the   inquest. He believed he said all this at the inquest, but the coroner did not think the evidence bore upon the case, and would not take it down.

Dr. SEWELL.-Why did you sign the depositions when all you had said was not taken down?

Witness.-The coroner said it was not necessary.

Dr. SEWELL.-Did he say "if that was the case I must have been out of my mind”?

Witness.-Yes; he said that.

Dr. SEWELL.-And yet you swear again that he said that if Margaret Mitchell had seen him at the window he must have been out of his mind, and that that was the whole conversation. That statement, and the one you have made today can't both be true.

Witness.-He said both. I intend what I say now to be the truth. I think I said all at the inquest.

To Mr. O'LOGHLEN.-The knife was not put into the wound, only outside the skin.

Thomas Mackenna, a mounted constable, examined by Mr. O'LOGHLEN.-The prisoner was in my charge on the 27th of last month. He told me that in the affray between himself and Mitchell, he did not think he injured him, he said that the next day as he was coming out of town, a man named Jolly told him that Mitchell was dead, and he was never more surprised in his life.

Cross-examined by Dr. SEWELL.-This is the first time I have given evidence in this case I was present during a portion of the inquest when Margaret Mitchell was examined. I never heard of her being threatened with handcuffs. I never gave this evidence to my superior before, nor to any human being.

To Mr. O'LOGHLEN.-It was a mistake that I was not examined at the inquest, but I told of this conversation to Sub-inspector Ryall and Mr.Lawlor before the inquest took place.

Sub-inspector Ryall re-called, and examined by Mr. O'LOGHLEN.-I know the prisoner, and saw   him first on Saturday, September 27, the day of   the inquest. I asked him if he knew what he was charged with? He said "Yes; you will see by my diary that I only returned to my brothers on Wednesday evening."I made inquiry for the  diary, and it was given me by Mr. Mayger. (Diary   produced.)

Edwin Willis Mayger examined by Mr.O'LOGHLEN.-I know the prisoner. The diary produced is in his handwriting. On June 4, I find an entry in the prisoner's handwriting, and other entries also in the same handwriting, dated June 22, August 4, September 12, 13, 24, and 25. The two last dates are wrongly put down, September 25 and September 26 ; they should be the 24th and 25th September.

Cross-examined by Dr. SEWELL I am the prisoner's son-in-law, he is a widower. I knew of his intention to go to Queensland, he was going with me I should have gone before but for this.

On the day before the murder he left my place, not telling me where he was going to, he was a little given to liquor, and when that occurred, I and my wife tried to take care of him.

He was in liquor on September 23. On that day I saw him cross my paddock in the direction of Mr. Brock's. He and McDonald occupied a lonely house near my house. I remember seeing Mrs. Mitchell on the morning of the 25th. She described the man she had seen the night before as dressed in dark clothes. Margaret Mitohell was not there. I saw her afterwards.

She   said she did not know the man who had come to the house the night before, she only said that the man had dark clothes on and came up by the little gate prisoner was in the habit of keeping a diary, he used both steel and quill pens, but   always used a quill pen if he could get it.

Dr. SEWELL.-Is he in the habit of using the knife produced to make quill pens?

Witness.-I only saw him use that knife in his own room; never out of it, I know he asked Mrs. Mayger for a knife to mend a pen. She said she had none and he replied, "Then I must sharpen my own."

Mr. O'LOGHLEN then read the following entries in the prisoner's diary: ?

"June 2, Monday.-Showers today. Mrs. Brock over to tea this evening. Margt. M nursing for Mrs.

"Monday, August 4, 1862. -Today fine.   Maggie left this morning Had gone when I went down. Edwin gone to Melbourne in gig.

"Saturday, September 13 1862.-Showers today, and dull. Edwin gone to Melbourne. Been over to Mr. Wiggins, Called coming back, and saw M. Had a chat. Laid all down, M-g-t walked off. Oh-oh-never mind.

"Friday, 12th.-Warm day. Been to Melbourne. Got stock-glass exchanged for a telescope. Got home by quarter-past six o'clock.

"Wednesday, 25th [in mistake, apparently for 24th].-Left bro.'s this morning. Got home six tonight. Tired turning in. Went to Mr. Iredale's. Got some bread and sardines. Slipped off the log coming over. Had a nobbler in my room, and turned into bed.

"Thursday, 26th [apparently meant for 25th]. -To day, fine. Been to Melbourne. Got back in good time. Poor Mr. Mitchell has lost his life last night. Been to see Whatmough. He is getting better. Might have killed him"

The learned counsel also read the following   verse of poetry found in tho diary:-

"Dear M., when far from thee I go,

All lonely is this heart of mine, What sighs my tortured bosom swell.

Oh! ask me, ask me not to tell."

Peter Johnston, examined by Mr. O'LOGHLEN'. -I live at Greensborough, and know the prisoner. I last saw him at that place at the coroner's inquest, I saw him before that opposite to where I lived, looking through a spy-glass towards the river. There are rivers, trees, and houses in that direction-one belonging to Mr. Mayger, and another to Mitchell. He was looking in different directions. There were other houses to be seen.

To Dr. SEWELL,-This is the first time I have given evidence. ,

Georges Sackville Cotter Butler, M.D., examined by Mr. O'LOGHLEN.- I was called in to   examine the body of the deceased. I found the body lying on its back, and I found an incision through both the shirts which were on it. The width of those incisions was about half an inch, I found a corresponding wound   on the anterior part of the chest. It was a   punctured incised wound.

I found another injury at the heart, but no other external wound, the external wound was close to the sternum, between that and the sixth rib. I traced the wound downwards and inwards to the left side.   I examined the breastbone, and saw that there was a deep puncture right through it.

The stab must have been given straight forwards, and the blade glanced off the sternum through the cartilages of the rib. The right ventricle of the heart was wounded, the wound passed to the left ventricle through the wall of the heart, and must have caused instantaneous death.

It was three inches deep and might have been inflicted by any sharp instrument, either of the blades of the knife produced might have inflicted the wound.

The person who inflicted it must have been standing up, and slightly inclined forward as he delivered   the blow, and immediately in front of the person struck, there would not have been much bleeding in a wound of that sort, and no blood would be left on the knife if it were withdrawn suddenly.

The blade of the knife is slightly bent just as it would be after making such a wound. The blade, probably struck the breastbone and glanced off, this would be the case especially if the blow was delivered with force, for considering the age of the deceased, the cartilages of the ribs must have been considerably ossified

This closed the case for the Crown

After retiring for a few minutes, for consultation with Mr Aspinall,

Dr SEWELL rose to address the jury for the   defence. He pointed out the magnitude of the interests involved, and the fearful responsibility resting both on himself and the jury, never, he said, in the whole course of his professional career, did he know counsel for the defence placed in a position like that in which he was finding a batch of policemen called up to give evidence, of which not the least hint had been given to the prisoner, who knew not what he had to meet.

How had the case been got up? What kind of evidence was that which Mr Inspector Ryall managed to get in at the last moment, and which had hitherto been shrouded in mystery, and never heard of before? Moreover, how was it that the doctor said there was no blood, which statement was to   account for the absence of blood on the knife   and yet, for theatrical display, shirts drenched with blood were paraded before the jury?

There was evidently a theory in the minds of the police. The prisoner had, in their view, put his black clothes on, put his pipe in his mouth, rushed out, smiling fantastically at the girl he was courting, and, in a moment, stabbed a man to the heart, their notion was that the prisoner, burning with hot lust, and enraged at the father, who kept him from his adored, had gone out for the purpose of murder.

He (Dr Sewell) could imagine a deep affection existing between two persons who had been interfered with and which interference excited a deep thirst for revenge, which would lead to bloody deeds.

But how far were these the facts of this case ? Grimshaw, the deceased, Mrs. Mitchell, and all, were  in good neighbourly terms, the mother knowing  nothing whatever of the prisoner's attachment to the daughter. Where was the object or motive of the murder? The prisoner was a widower, and might have married the girl if he chose.

God had imprinted on human nature an instinctive abhorrence to blood, and was it likely that the prisoner, who loved the girl Margaret Mitchell so much that he would go through blood and water for her, would go and strive to conciliate her favour by slaying her father by shedding his blood without the least provocation on the threshold of his home?

Could the jury conceive a man like the prisoner going out, with a penknife in his hand, to kill about the last person in the world he would wish to kill '' It was the first inquiry, in cases of this kind, what was the motive for the crime ? Did not the minds of the jury already point to someone else as its probable perpetrator? Were not potatoes stolen? And was it not, according to Mrs Mitchells account, that the   man she saw was going in the direction of the place where those potatoes lay ?

Dealing with motives, who was likely to commit the murder a man who was interfered with in his theft, or the prisoner sworn to? Sworn to! but under circumstances how painful he could hardly say. It was the evidence of the girl Margaret Mitchell and of one of the policemen which alone touched   the case against the prisoner.

It made him shudder to know that such a girl, who loved her father, and who had only received rude attentions from the prisoner, either committed dreadful perjury now, or told an equally dreadful lie   when her father lay dead on the floor before her. She said she did not like to tell her mother.

Not tell her mother at a moment when, mad with excitement and grief, all minds were turned to the poor murdered father and the wretch who had done the deed ' She could easily sit all day long, and lie again and again She would not tell her mother, but whom would she tell? In the first place, she said she saw a hat and coat, on a night when it was so dark that the poor deceased had to take a lantern to light his footsteps.

The father, too, who kept his senses after the blow who quietly said he did not know the murderer,   and calmly commended his family to his wife heard the murderer's voice was close by him must have known him, if he was to be known , and yet did not know him.

The girl said she saw the prisoner, but was that possible when he stood in a dark verandah, covered with creepers, on a dark night, when, under far easier circumstances, the father did not see him? Was not her evidence steeped in falsehood?

If ever girl were called upon to tell the truth she was called upon during that dreadful night and morning, when her murdered father lay dead on his threshold, and yet she said then, over and over again, that she never knew the man

The police had heavy duties to perform, and equally important privileges, but there must be a limit somewhere and what must be said when the girl Margaret Mitchell never owned that she had re cognized the prisoner till she had been threatened with handcuffs.

No doubt the police lead through zeal, but what was the benefit of doing away with the torturing rack or the crushing boot if the police were to do this? But what reliance could be placed on the girl who could see her father die, her mother a widow, her brothers and sisters fatherless, knowing that she could bring down condign justice on the murderer, and tell one story till threatened with handcuffs she told another ' It was impossible she could have seen the prisoner.

No human creature could have seen the prisoner as she saw him, smiling in the dark, would a man with his heart full of affection, with a pipe alight in his mouth, think just then of committing a foul, cruel, and most unreasonable murder? It was the last place in the world for a murder.

The family were all at home, and the prisoner according to the account given had shown himself at the window, so that nothing could be more foolish than a murder at such a time. It was monstrous and absurd to suppose that the prisoner did the deed. His (Dr Sewell's) defence was not that the prisoner was insane, not that the death came by accident, but that he was not the man, and that he was asleep at the time.

He had been a journey, and got tired, he had   gone to Mrs Iredale, and, as he was in liquor and had promised his daughter to reform, he told her not to tell, all that was extremely natural, and completely tallied with the entry in the diary.

No doubt there was time enough for him to commit the murder, and yet be in bed soon afterwards, but what was the reasonable inference from his acts? he was tired, he was weary, he had purchased refreshments, was that the time to think of love and murder?

A light was seen in his room at ten o'clock, and at midnight he came down, woke up the man who lived near him, and had a nobbler, was it likely that a man would do this murder, and then, with liquor in his head, sit down and write such an entry as that he had made in his diary?

To have done so showed such craft, such exquisite cunning, and self command, that it was absurd to believe that a man who could take precautions like these would be such a fool in his sober moments as to blurt out an admission of his guilt to the police, it was, moreover a great pity that the statements should have been made under the circumstances sworn to.

In the first instance, Lawlor told now a story which never came out in the depositions taken before the coroner, he believed he told the story at the inquest, and that it was not taken down , but would the jury believe as much? Was the story a true one, when a single word would change its whole   tenure?

If the man went to Melbourne, why, with guilt on his mind did he come back and go to sleep so quietly? It was given as in evidence of damning guilt that the prisoner told Poulter of the blood and water he would go through for a girl, and then fell into the gutter, were ever such drunken maudlin ravings given in evidence before a court?

Another piece of evidence was given, when he (the learned counsel) invited the jury to disbelieve and if the police were suffered so to manufacture facts, no man's life was safe, and the rule of Austria would be better than that of Queen Victoria.

Idle words might have been dropped and misconstrued but were those admissions which were kept back by Mr. Ryall till the trial came on, the prisoner knowing nothing at all of them, really made? there was not a single corroborating witness; and could the jury believe the tale, if it led the prisoner to the scaffold?

Dared the jury believe it, having regard to their own oaths, and the interests of mankind at large? Idle words were spoken but what did they amount to? These words referred to a scuffle, and yet the evidence of the police and all went straight to the fact that there was no scuffle at the murder.

The police had, for once, been just too clever. Mrs. Mitchell would not say one word about the prisoner, and the man she saw she described to be a different man to the prisoner.

What could be said of the girl? her guilt was next to that of a parricide, she was false-false as hell! One shuddered to contemplate her baseness. Was perjury a great crime to add to those she admitted? She either lied for a whole morning over the dead body of her father, or she lied all the rest of the day for fear of handcuffs.

To return, the evidence becomes weaker as it went on, even the very sharpening of the knife was accounted for, no blood was found on it, the least likely blade was shown to be bent, though such a blow would have broken it off, or bent it double; and the   knife might clearly be left out of mind?.

Everything concerning the prisoner's statement tallied exactly. He was going to Queensland, he went to Melbourne, all was put down in the diary every movement, and every thought, it bore the stamp of truth in every line,

The diary said "Poor Mr. Mitchell has lost his life last night" The police said he was excited when told of the sudden death of a near neighbour but was this a proof of guilt? he put it down in his diary as a matter of interest and that was all.

What was the very next entry? "been to see Whatmough" a man who had fallen off a tree "getting better." There was an exquisite naturalness about every feature of that part of the evidence and that entry was surely not the entry of a guilty man?

He (Dr. Sewell) had now gone through every part of the evidence and, having shown how completely the evidence against the prisoner hinged on that of the girl Margaret Mitchell, he prayed that the jury might have eyes to see and understanding to comprehend all parts of the case, that, while they punished the guilty, they might let go the innocent.

His HONOUR, in summing up the evidence to the jury, told them they would have to decide whether the prisoner was guilty of murder or manslaughter, or whether he was entirely innocent, taking the evidence as a whole, that given by two witnesses was the chief support of the case.

The first of these witnesses was the girl, whose evidence was open to suspicion after she had so long withheld her knowledge of the prisoner's presence at the murder, and who only gave way at last through fear of the handcuffs, the other witness was a policeman, to whom the prisoner was said to have made a sort of admission, and these conversations must always be looked upon with suspicion.

Indeed, under the circumstances, it was strange that a man like the prisoner, who had already taken steps to show his innocence, should choose a policeman as his confidant of the fact that he had had a struggle with the deceased.

Then again, it was said that there was no scuffle but he (the learned Judge) rather thought there had been one and was disposed to place little weight on the remarks made by counsel on this part of the evidence. The fact that that policeman's superiors took no notice of or underrated the value of his evidence was not to detract from its importance now, and the jury must bear this in careful consideration.

Council for the defence had laid great weight on the fact that the murder must have been a premeditated one, but that appeared by no means to be implied, it was not necessary that the crime should be thought of before; though it was certainly strange, if it were not thought of before, that the prisoner, stunned by the fatal consequences of his unintended crime, should have made no attempt to escape.

One aspect of the case would, however, demand the serious attention of the jury, and they must seriously consider whether the prisoner, having a sort of dangling affection for the girl, and being partly intoxicated, did not, when brought face to face with the father who was likely to stand between him and the girl, resort to weapons.

The question was, under these circumstances, whether the jury would not bring in a verdict amounting to manslaughter.

The learned Judge then proceeded to read through his notes of the evidence, interspersing them with comments respecting their bearing upon the prisoner's identity with the really guilty person, he concluded by telling the jury that an accusation of deliberate murder was entirely out of the question. They had to consider whether the prisoner had given the stab at all, under what circumstances, and what provocation, if any.

The jury retired, and after about twenty minutes absence returned with a verdict of " Guilty of manslaughter."

When asked what he had to say why sentence should not be passed on him,

The prisoner, who spoke with extreme indistinctness, said he had had no idea that the man was hurt till he was told so in town, he would not knowingly or willingly have hurt a hair of his head, he respected him as his own brother and had he been in danger would have voluntarily assisted him.

The Almighty know-it was registered in heaven that the knife was never in his hand to commit murder, but only to mend pens or cut tobacco. At the Judgement-day it would be known that he had never done the deed.

What had the policemen said to him when he was arrested? They wished him to say that he was guilty, they said, "You swear that you had your tobacco-knife in your hand and that Mitchell rushed out and ran against you, and you are sure to get off."

Where were their consciences? They would have to answer for it to their maker. He hoped that God, who knew men's hearts would enable him to bear what he had to bear.

His HONOUR, in passing sentence, said the jury had very properly come to the conclusion that the act was not premeditated. The prisoner appeared to have formed a foolish old man's attachment to a very young girl, whom he pursued continually, no doubt he had been under the influence of liquor and had been led by intoxication to commit an unintended crime.

He (the learned Judge) must, after the verdict of the jury, treat the prisoner as really the person who had done the deed, he had been loitering about improperly after the girl, pursuing her disturbed the father, who had come out of his house thinking robbers were about and the blow had been struck without any provocation.

The prisoner denied using the particular knife, but that might not have been the knife which he had been led by drunkenness to use; but, however much the crime might be owing to liquor, it must be severely punished and the sentence of the Court was that he, Josiah Grimshaw be kept to hard labour on the roads for three years.

