

them with guilt, would, on the old principle of the escape of the ninety-nine guilty out of one hundred, have been more conclusive. To the Question—"Is it possible to believe that two men could be in the same spot, at that hour, armed and dressed alike in so remarkable a manner,"—the answer is, it is perfectly possible, particularly in the New-Orleans of Canada, although it assuredly is not very probable. The leading facts are said, "*taken singly*, and much more taken together, to present a very strong array against the prisoner. This is certainly an oversight in the use of expressions, but nevertheless an unfortunate one, as tending to give an emphatic tone to the language of the speaker. The facts taken singly, exclusively of the confession, cannot weigh a straw,—the evidence being circumstantial, which is very properly defined as the result of a combination of circumstances converging to one conclusion. Besides, if there were room for hypercriticism in a grave subject of this nature, we should say that a "single" fact, logically, can never present an array. The absence of a motive is very correctly stated to be no argument, when the evidence of the commission of the crime is otherwise conclusive; but it is, negatively, an embarrassing fact for the jury in a case open to the possibility of a doubt, precisely as it is difficult to determine whether the colour of an object be black or white, when it happens to be grey.

One of the concluding sentences is,—“If you can find any circumstances, which can lead you to pronounce the prisoner innocent, in God’s name, do so. If you are satisfied the assassin stands before you, you must not, you cannot, you should not dare to acquit him.” This language is solemn and deeply impressive, but nevertheless there is error. The jury were not called upon to pronounce him *innocent*. If the verdict be—*not guilty*, the judgment of the law decrees the innocence of the accused. Even the tone of this alternative of innocence has a strong tendency to convict. Such a direction under the Scotch criminal law might be applicable, because a middle course is permitted by the re-