

Smith's case which might serve to indicate generally that direct asphyxia was probable, and which, consequently, would militate against the possibility of her death having been owing to coma or indirect arrest of the breathing. These circumstances, which seem to have weighed strongly with the Court, were the position of the tongue, the froth at the lips, the lividities at the fore parts of the body, the expulsion of the feces, and the unnatural position of the limbs,—phenomena, without doubt, more frequently to be met with after death by direct than by indirect asphyxia. This, in common fairness, is all the degree of consideration which, as I conceive, they are entitled to claim from us. They are not, either singly or in combination, so peculiar to the former of these modes of the termination of life, as to settle the point in its favor with unhesitating certainty in an otherwise doubtful case. Thus, in actual practice, while I have seen the tongue protruding from betwixt the teeth in seventeen out of thirty cases of direct asphyxia,* which I have had occasion to examine (*i. e.* in 56.6 per cent. of these), I have also met with the tongue in the same position sufficiently often after death by congestive apoplexy, to weaken my reliance on it as an infallible distinctive sign: in fact, it has been so encountered by me in seven out of thirty such cases, or in 23.3 per cent. of the whole.

Froth about the lips or nostrils, and in the air passages, and in the air cells of the lungs, is even a more equivocal sign of primary asphyxia than the protrusion of the tongue. Thus, although it was present in seventeen of the thirty cases of asphyxia referred to, it was also detected in the same situation in ten of the thirty cases of apoplexy, or in the ratio of 56.6 per cent. of the former to 33.3 per cent. of the latter.†

Lividities in front of the body are still less to be trusted to as a distinctive test of direct or primary asphyxia, having been noted in eleven of the thirty cases of this form of death, and in as many as eight of the cases of apoplexy,—*i. e.* in the proportions of 36.6 per cent. of the one, and 26.6 per cent. of the other—a difference too inconsiderable to be relied on in a case of this sort.

Again, as to the expulsion of the feces in each of the contrasted forms of death, the number of instances in which this occurrence was observed were exactly equal, being but three in each, or six in all.

Once more, the unnatural position of the limbs does not appear to me to have any special bearing on the mode of Smith's death. It indicated that the cadaveric spasm, which had fixed the limbs at death in the position they had previously occupied, had persisted, and so retained them until the usual cadaveric rigidity had developed itself in the body. Now, although this phenomenon is one which is found after death by drowning, and oftener still after death from the inhalation of irrespirable gases, it is not at all very uncommon after death from different diseases, particularly

phthisis, apoplexy, and other diseases of the nervous system. I once encountered the immediate passage of cadaveric spasm into cadaveric rigidity in the body of a common prostitute, who was found in the same position as Smith, having died in the act of sexual connection, and who, on a medico-legal inspection, was proved to have perished from pneumonia, under which, in an aggravated form, she had been labouring for some time. The result of this examination led to the immediate liberation of three young men who had been with this woman at the time of her death, and who had been apprehended on suspicion of having been concerned in it. With the view of inculcating proper caution in dealing with cases of this sort, and in drawing inferences from such circumstances as we have been considering, in proof of death by violence, and in one mode rather than in another, I would take leave to refer to one other instance where cadaveric spasm was met with on an occasion which gave rise to suspicion of unfair dealing:—Hugh Gauld, a spirit dealer here, one night last month was found by a policeman lying dead in his back shop, and precisely in the same position as Smith, except that he was stretched on the floor. His small clothes were unfastened, and his head doubled up against the foot of a heavy wooden table, which lay overturned at his left side. When seen immediately after, I found froth about his nostrils, his tongue protruded, and his face, and the fore part of the neck, very livid. The lividity, at the inspection of the body on the following day, was found to have increased in intensity, and to have extended to the upper and fore parts of the chest. The air cells of the lungs were filled with mucous froth. From the state of degeneration of the coats of the arteries at the base of the brain, and the very congested and loaded condition of the scalp and encephalon, no doubt was left on the minds of the examiners that Gauld had died from apoplexy, occurring in the natural way. This view was confirmed by the inquiries of the legal authorities, who discovered that the man had been alone at the time of his sudden death. The state of his clothes is readily accounted for by supposing that he had gone into the room to pass his urine, a vessel half full of which was discovered there in a cupboard. This man was strongly built, and very powerful, and latterly well known as a pugilist.

Notwithstanding these admissions, which deduct from the value of the circumstances just noticed, as pointing rather to death by direct than by indirect asphyxia, still the weight to be assigned to them is such as is not to be concealed or evaded. But before we can admit their application to the case in hand, and give our assent to the admission to which they would lead us, a little further consideration must be given to the difficulties in the way of our coming to even this qualified decision. For if, on the one hand, it must be conceded that there were no absolutely certain data on which to rest the proof of direct asphyxia, were there, it may be asked, on the other hand, any circumstances in this case hostile to such an assumption, or calculated to diminish its probability? To this inquiry we now turn.

The form of direct or primary asphyxia, which the public prosecutor wished to bring out at the trial, was that of suffocation; and to this form of asphyxia I shall limit my further remarks. But how stands the evidence in proof of this mode of homicide in Smith's case? "Homicide by suffocation," says Dr. Taylor, "Would not be attempted in healthy adult persons, unless they were in a state of intoxication, and thereby rendered defenceless." And again, "it is certain that most individuals" so situated "would have it in their power, unless greatly incapacitated by disease or intoxication, to offer such a degree of resistance as would leave upon their persons indubitable evidence of murderous violence" (*Op. cit.* p. 726). None of these favouring circumstances,—greatly incapacitating disease or intoxication,—were present in this instance; while it was very evident that, notwithstanding the necessarily attendant surprise and terror which must have accompanied the assault, whatever its nature, the woman had been at the time in a condition to offer, and had actually offered, such a degree of resistance to her assailant as would have left on her body "indubitable evidence of murderous violence," had suffocation been attempted.* Such, at least, is a propable

* I have known in practice attempts at both homicidal suffocation and strangulation; but in these the assailants were successfully foiled, not, however, without leaving indications on the

* These cases will be allowed to be adduced in perfect fairness, when it is mentioned that only two of them occurred under circumstances of violence, and that, consequently, they cannot be regarded as picked illustrations: seven of the cases were children who had been suffocated or smothered from accidental overlaying or overwrapping; seven were adults, suffocated from their faces getting buried in bedclothes or in pillows while in an unnatural position when in drink; six were also adults, who had perished from the inhalation of irrespirable gases; two more were likewise adults, asphyxiated from mechanical compression of the chest; and the remaining eight, adults too, were instances of suicidal hanging, in six of which the bodies had only been partially suspended on the ligature, parts of their bodies having been found resting on the ground.

† The situations and relative frequency of this appearance in these will be seen as under, viz.—

	In Apoplexy. In Asphyxia.	
	Cases.	Cases.
Froth about the lips	2	3
Froth about the nostrils	2	1
Froth in the mouth	3	1
Froth in the larynx, trachea, or bronchi (once copiously)	3	12
Froth in the air cells (in 3 copiously)	6 }	10 (once sparingly.)