major premise. "Following after" a person was not a crime. Perhaps it might be if done with felonious intent, but "wickedly and feloniously" were not inserted here. The language used was not sufficiently clear and unambiguous to describe a criminal intent—*Kerr*, 3 Irv. 627. (2) There was no specification that the girl's falling over the cliff was the consequence of the following after by the accused, and of an endeavour on her part to escape from the pursuit libelled. It was left to be inferred, first, that the following after was an illegal act; and secondly, that the being bereft of life was a consequence of the following after. The Crown might prove all that was here set forth, and yet no guilt on the part of any person be shown. This was the true and only test of relevancy, and the indictment did not fulfil it—Hume on Crimes, i. 235.

At advising—

Lord Young—I do not think it necessary to call for a reply from the Crown, for I am quite satisfied of the relevancy of this charge. It is simply and in substance this, that three men having in a lonely place assaulted a woman in the way described, and she having managed to escape so far from them, they pursued and tried to overtake her, and while she was endeavouring to escape, and they trying to overtake her, she fell over the precipice and was killed. If these statements are proved I should not think it clear that they did not amount to murder, but I am certainly quite clear that they do amount to culpable homicide, because if the woman met her death in endeavouring to escape from the assault of these men, then her death was the consequence of their unlawful and violent conduct towards her.

The Court repelled the objection and found the libel relevant.

The jury, as the result of the evidence, returned a verdict of guilty as libelled, and the prisoners were each sentenced to seven years' penal servitude.

Counsel for The Crown—Lord Adv. Macdonald, Q.C.—Blair, A.-D. Agent—Crown Agent.

Counsel for Slaven—MacWatt. Agent—

Counsel for Williams—Craigie. Agent—

Counsel for Traill—A. J Young—Gardner. Agent—

COURT OF SESSION.

Tuesday, September 29.

OUTER HOUSE.

[Lord Trayner, Lord Ordinary on the Bills.

PAROCHIAL BOARD OF CITY PARISH OF GLASGOW *v.* ASSESSOR OF RAILWAYS AND CANALS.

Valuation Cases—Public Works—Taxes—Deductions Allowed for Tenant's Taxes.

Held that in fixing for purposes of assessment the annual rent of works belonging to a corporation for public purposes, and from which the corporation was not entitled to make a profit, a proportion only of the taxes and rates, being such as would fairly be charged against a tenant, might be allowed as a deduction.

These were appeals by the Inspector of Poor of the City Parish of Glasgow against valuations made by the Assessor of Railways, &c., of the Corporation Gasworks and the Corporation Waterworks.

The assessor had fixed the valuation of the latter at £113,188, 12s. 5d. The appellant objected, *inter alia*, that there had been erroneously allowed deduction of the whole rates and taxes instead of one-half, being a deduction of £9225, 2s. 8d. instead of one-half thereof, £4612 11s. 4d.

In the case of the gasworks it was in like manner objected that the assessor had allowed deduction of the whole expenditure for taxes, amounting to £19,162, 7s. 6d. instead of £9581, 3s. 9d., being half thereof, the remaining half being properly applicable, as he contended, to the Gas Commissioners as owners of the works. Objection was also taken to a deduction of £449, 13s. 2d. for law and parliamentary charges.

Argued for appellant—The deduction here claimed was novel. The gross rent, deducting tenant's profits, ought to be taken.

Argued for respondent—The difficulty arose from having to apply an assumed tenancy to a case in which the assumed tenant had to undertake much of the landlord's duties and to make no profit. The deductions allowed were fair and reasonable.

Authorities.—*Droitwich* Case, L.R., 2 Ex. Div. 49; *Dundee Gas Commission*, 9 R. 1240; *Kirkwell*, 1881, 9 R. 1243; *Edinburgh and Glasgow Railway Co.*, 8 Macph. 229; *Dalbeattie* Case, 10 R. 23.

The Lord Ordinary on the Bills, after hearing counsel, pronounced these interlocutors:—

Waterworks.

"Finds that in fixing the annual rent or value of the lands and heritages in question, deduction should only be allowed of a proportion of the rates and taxes paid in respect of such heritages, being the proportion payable by a tenant: Finds that the amount to be now deducted in respect of such proportion of rates and taxes is the sum of Four thousand six hundred and twelve pounds eleven shillings and four pence sterling, being one-half of the whole amount of the rates and taxes paid or payable in respect of said heritages: To this extent and effect sustains the appeal: *Quoad ultra* dismisses the appeal and remits to the assessor to amend the valuation in accordance with this interlocutor.

"*Note.*—It was argued for the appellant that the assessor had erroneously allowed deduction of the whole expenses of management and maintenance on the ground (1) that a proportion at least of these would necessarily fall upon the landlord, and (2) that in valuing heritages the gross rental received by the landlord should enter the valuation-roll without any deduction on account of the expense he had been put to on account of management and maintenance. I should not hesitate to give effect to this argument in the ordinary case of landlord and tenant. But this is not the ordinary case; it is the case of landlord and tenant in one person prohibited from making any profit by his enterprise or business. In these circumstances there is considerable difficulty in reaching the standard of valuation given by the

Valuation Act viz., 'the rent at which, one year with another, such land and heritages might in their actual state be reasonably expected to let from year to year,' It is not impossible however, to apply that standard to the present case. A tenant would scarcely be found to enter upon the works in question at a loss to himself, but a tenant might be found to carry them on without gain. The corporation is in fact its own tenant on these terms. What the tenant in such case could reasonably be expected to give as rent is just what he received less the rent of management and maintenance, and what the tenant paid and the landlord received under such an agreement would be the gross rent. I agree in the opinion of Lord Fraser and Lord Kinnear [*ante*, vol. xxii. p. 10, and p. 114] that the yearly rent or value of the works in question is the income derived from the rates after all necessary outlays have been met. Rates and taxes, however, stand in a different position. These are imposed on landlord and tenant in a certain proportion. That which is imposed on, and may be directly recovered from, the landlord as such, cannot be said in any view to be tenants' expenditure, and cannot, in my opinion, be allowed as a deduction from gross rent. I have allowed therefore a deduction—one-half of the amount paid or payable as rates or taxes in respect of the heritages in question, the assessor informing me that that is the amount fairly chargeable against the tenant."

Gasworks.

"Finds (first) that in fixing the annual rent or value of the lands and heritages in question deduction should only be allowed of a proportion of the rates and taxes paid in respect of such heritages, being the proportion payable by a tenant: Finds (second) that the amount to be deducted in respect of such proportion of rates and taxes is the sum of £14,371, 15s. 7d. sterling, being three-fourths of the whole amount of the rates and taxes paid or payable in respect of said heritages: Finds (third) that the deduction of £449, 13s. 2d. on account of law and parliamentary charges should not be made; to this extent and effect sustains the appeal; *quoad ultra* dismisses the same, and remits to the assessor to amend the valuation in accordance with the interlocutor.

"*Note.*—No explanation was offered as to the circumstances under which, or the purpose for which, the charge for law and parliamentary expenses was incurred; *prima facie* these are landlord's, not tenant's, charges, and I disallow them as deductions in ascertaining the yearly rent or value of the subjects in question. As regards the other deductions which form the subject of appeal, I refer to the note appended to my interlocutor on the appeal relative to *Glasgow Waterworks* [*supra*], adding only that in fixing the amount to be allowed as deduction in respect of taxes I have proceeded on the information of the assessor, who had satisfied himself that about one-fourth of the taxes was all that could be regarded as the landlord's proportion."

Counsel for Appellant—D.-F. Balfour, Q.C.—Dickson. Agents—W. & J. Burness, W.S.

Counsel for Assessor—Sol.-Gen. Robertson—G. Wardlaw Burnet. Agents—Millar, Robson, & Innes, S.S.C.

Wednesday, November 18.

FIRST DIVISION.

[Lord M'Laren, Ordinary.

WATT *v.* WILKIN.

Husband and Wife—Succession—Courtesy.

Courtesy extends only to so much of the estate as the wife acquires *præceptione hæreditatis.*

Husband and Wife—Courtesy—Conquest.

One of four daughters who was entitled, as heir of provision to her father, to one-fourth of a heritable estate, succeeded to the whole of it by his deed. She died survived by her husband. *Held* that his right of courtesy extended only over one-fourth of the heritage, the other three-fourths having come to her by deed, and therefore being, as conquest, not subject to courtesy.

James Little, writer in Annan, and his spouse Mrs Jane Little, by mutual disposition, dated 11th August 1853, bequeathed to their daughter Mrs Janet Little or Wilkin and the children of her body a small estate called Guysgill, in the shire of Dumfries. The testators also bequeathed to their daughter Janet and to their other three daughters, equally among them and the children of their bodies, the whole of the rest of their means and estate, including certain other heritable subjects in Annan.

James Little died on 18th November 1854.

Thereafter Mrs Janet Little or Wilkin took, as disponee under the said mutual disposition, the Guysgill property and the one-fourth share of the other heritable subjects in Annan. She died intestate in November 1857, survived by her husband Herbert Wilkin, and also by three children, Alexander Wilkin, Mrs Barbara Wilkin or Watt, the pursuer of this action, and Thomas Wilkin, the defender, each of whom was entitled by their grandfather's settlement to one-third of the properties disponed to their mother as heirs of provision of her.

After Mrs Wilkin's death in 1857 her husband Herbert Wilkin drew the rents of the Guysgill property and one-fourth of the rents of the Annan property, and continued to do so down to his death in 1877.

By will he left his whole estate to his son Thomas Wilkin, the defender of this action.

The present action of count, reckoning, and payment was raised by Mrs Barbara Wilkin or Watt, as an individual, and as executrix-dative of her brother Alexander (who died in February 1879), against Thomas Wilkin, as executor of his father Herbert Wilkin, concluding for an accounting of Herbert Wilkin's intromissions with the rents of the estate of Guysgill from 1857, the date of his wife's death, to the date of his own death in 1877, in order that the proportion of the rents due to the pursuer, and as an individual and as executrix-dative, might be determined.

The pursuer averred that though her father Herbert Wilkin drew the whole rents of the lands of Guysgill after his wife's death, and also one-fourth of the rents of the Annan property, and appropriated them to his own uses, his right of courtesy as regarded Guysgill, if any existed, extended only to one-fourth part of the