

thought must exist to constitute the crime, implies that the perpetrator must be a moral agent a reasonable and accountable being.

Here probably lie the hopes of the prisoner and his counsel; and whether he was or was not such a moral agent, and such an accountable being, at the conception and execution of this dreadful tragedy, is for you to determine.

It would seem indeed, as if none but a madman could have perpetrated such a deed as we have here exhibited in evidence. Who, we are ready to exclaim, but a maniac, an insane and deranged man could have imbedded his hands in the blood of such a victim;—could have plunged the dagger into the bosom of virtue, the breast of love itself, and let out the life streams of her in whose life and happiness his own was bound up in unquenchable affection? It is almost incredible.—Gentlemen, it is strong evidence of insanity. It is entitled to your consideration—let it have its weight; but it is my duty to add, it is not conclusive evidence of that sort of insanity which exculpates from accountability and guilt. Phrenzy and passion are nearly allied to—may, they are partial insanity; but it is sometimes such an insanity as increases rather than diminishes moral turpitude—as proves its existence rather than its absence. Such, unhappily, is the depravity of human nature, that disappointed love, as well as disappointed avarice, or ambition, sometimes urges on its victim to crimes of deepest die, to murder and even to suicide, itself. But such aberration may be only the acting out of a selfish, depraved, and wicked heart, the gratification of a malignant and vindictive spirit, that has not moral courage or virtuous sensibility enough to survive or overcome a defeat, or the humiliating refusal of proffered love; it may be malice, in its deepest, darkest colours, and its most resentful, malignant, and deadliest form. Such is the strange and mysterious composition of our nature; so closely allied are our virtues and our vices; so easily does the former degenerate into the latter, or the latter assimilate themselves to, and assume the garb of the former, it is often difficult to determine where the one terminates, or the other commences. Such is the passion of love; it may be pure and virtuous, chaste in its conception, holy in its motives, honorable and disinterested in its object; it may seek exclusively and supremely the happiness of the person on whom it is fixed, regardless, in a measure, of its own welfare, except so far as it stands connected with the welfare of that person; it is then a noble and ennobling passion. But it is sometimes a vicious love; it is rather the burning lust of unhallowed and undisciplined passions, than the ardent flame of virtuous and sentimental affection; and when such is its character, it is not surprising, if unrequited and ungratified, it should turn to hatred and seek revenge.

It does not mean to intimate that such was the nature and character of the prisoner's attachment to the deceased. It may have been as pure and holy as ever glowed in the bosom of a mortal being. It may have burnt and blazed too strong for the physical powers of his mind to endure; and the lamp of reason itself may have gone out, or but glimmered in its socket, under the influence of its all-absorbing power; and if by such, or any other cause, the prisoner's mind had become unsettled and deranged;—if reason had been driven from its throne, he was a wretched, miserable, crazy man, but not a guilty one. And here, perhaps, I ought to be more specific as to what amounts to, or constitutes such a derangement, as exculpates from the imputation of guilt, and saves from the infliction of punishment.

It is a general rule, that all homicides—that is every killing a person, is presumed to be malicious, and of course, murder, unless the controversy appears from circumstances of alleviation, excuse, or justification—and that it is incumbent on the prisoner, to make out such circumstances, to the satisfaction of the court and jury, unless they sufficiently appear from the evidence and case made out on the part of the prosecution—or perhaps at most it is necessary for the state to show a homicide committed by defendant prima facie, clear of any alleviating, excusing, or justifying cause.

In the case now before the court, as I have already remarked, the homicide is proved, and if not confessed, is not denied. The prisoner then is obnoxious to the charge, and liable to the dreadful consequences of murder, unless he can alleviate, excuse, or justify his conduct.

It is not necessary for me to enter into a specification of what constitutes an alleviation, excuse or justification. The defendant has not attempted to alleviate, or to justify—but his defence is bottomed on a fact, which, if true, is an excuse. That fact is a state of mental alienation; and if such alienation did exist, it is an excuse. It does rescue him from the charge of crime, and shield him against the punishment due to guilt.

But then it must be satisfactorily shewn to the jury, that he was in that unhappy and miserable condition; and at this point the difficulty meets us and presents two questions. 1st, What state, or degree of alienation of mind, constitutes an excusing insanity? and 2dly, Did such an insanity exist?

The first it is my duty to ascertain and declare; the second it is your province to determine.

In ascertaining what degree of insanity will excuse, we may derive some assistance from the reason of the thing; from analogy to other cases, and from settled rules. Reason and good sense teaches us at once, that it is not every weakness, imperfection or fallacy of the human mind, that puts an end to our free moral agency and exonerates us from accountability; for in the true philosophy of mind in reference to moral action, every departure from strength and virtue, is but an act of insanity; the manifestation of a disordered mind as well as a depraved heart.

In the case of children of tender years, of nine and ten years of age, who have been indicted, convicted, and executed for crime, the inquiry has not been, whether by premature maturity or intellect, they were capable of understanding and judging correctly, of the moral law, in all its bearings and relations upon

themselves and others, but whether they had intelligence enough to know right from wrong, good from evil, or whether they were committing a crime for which they deserved, or were liable to punishment. But without pursuing these remarks any farther, it is enough for me to say, that the ablest and most humane judges that ever adorned the judgment seat, have repeatedly decided, that it is not necessary to render an act criminal and the perpetrator punishable, that every spark of reason should be extinct; that though it may glimmer in its socket, and give but an unsteady and doubtful light; yet if enough remains to shew it was susceptible of feeling its legal and moral obligation, though not sufficiently strong and steady to discover them in all the bearings and obligations, yet he is responsible and punishable. But, if there is an absence and destruction of the reasoning powers, a dark chaos of the mind, incapable of feeling the restraints of law, or of discriminating between right and wrong, or of fitful and illusory phantoms of the brain, that present things in a false light, or impose upon the disordered intellect as realities, what has no existence in nature; such a mind, thus in ruins, has ceased to be accountable for its acts.

I do not mean to say that there must be a total and absolute extinction of the reason. If the prevailing character of the mind is insane; if only now and then it is pierced by a lucid ray; but its general character is disordered and chaotic, it would be dangerous, if not cruel, to convict and punish for a crime an individual thus already miserable and pitiable.

With these remarks, on the extent and degree of derangement necessary to exculpate a defendant, and referring you to the cases that have been read and commented on by counsel, I dismiss this branch of the subject.

With this explanation, your next inquiry will be—did such a state of mind exist.

In these investigations we can derive, after all, but little practical benefit from the learned and scientific works on medical jurisprudence. We know, for instance, that intemperance sometimes produces insanity, and insanity sometimes shews itself by intemperance. But the difficulty is to tell, which is the cause, and which is the effect; so in this case—whether a disordered intellect led him into the excesses he committed on board of a steam boat and in the city of New York, or whether those excesses were characteristic of the real moral feelings that led him to the commission of this horrid deed, is a question that the casuistry of doctors can afford us but little help in solving.

After all, in their own language, it must depend upon the circumstances of the case.

It may be, gentlemen, you will find evidence enough of such an alienation of mind as I have described, and God grant that you may; for we would rather, infinitely rather, find him a maniac than a murderer.

And here you will refer yourselves to the evidence. You will remember, and try to account for his altered looks, and the absence of his wonted cheerfulness, after his return from New York. He had left, it was thought, perhaps hoped, at least by the mother, never to return. But he came back. He came back pale and dull. Was it the paleness and dullness of a diseased body; a distracted and deranged mind? Was it the sad effects of his recent debauch and dissipation in the city of New York? If the latter, was that debauch, that disgusting conduct related by his friend Wallace, the acting out of an insane mind; or a depraved heart. Was it the paleness of passion, the dull, gloomy and unsocial feelings of a heart bent on mischief? Had a fixed and settled purpose been formed in his bosom, to destroy the gem he could not make his own, or was he the unhappy victim of his ardent, but misplaced affection?

These, gentlemen, are questions, to which you must respond; and if any thing in the absence of full and satisfactory evidence of insanity, can save the prisoner, it may be found in the burning eloquence, and untiring efforts, the soul stirring appeals of his able and distinguished counsel; they have done their duty; and if the unhappy prisoner must pay, to injured justice, the forfeit of his life, his blood will not be found on any part of their professional garments.

And now let me beseech you, gentlemen, that nothing I have said, be understood by you, as intimating an opinion unfavorable to the prisoner. I have not intended, in reference to the great and material facts in the cause, to express any opinion either for or against him. My object has been, however unsuccessful the effort, so to conduct this trial, that if the prisoner is acquitted, public justice shall be satisfied—if condemned, he may die in peace with me, and have no occasion to occupy his last lingering reflections, with the thought that the court has done him injustice. That such has been my object, I think I can confidently, but reverently appeal to the Searcher of hearts.

To His guidance and direction, gentlemen, I fervently commend you. Go to your chamber, and there in the fear of God, and as you expect to answer for the transaction of this day, at His bar, discharge your duty to the country, and to the prisoner; and may the Spirit of unerring wisdom, the God of mercy and of truth, preside over your deliberations, and conduct you to such results, that neither Justice nor Mercy shall have occasion to mourn or be offended.

SENTENCE.

Joel Clough—After as full, fair and deliberate a trial as I have ever witnessed in the experience of thirty years practice at the bar—you have been convicted of the murder of Mrs. Mary W. Hamilton. In the history of this trial you have had the benefits of able and distinguished counsel, and if you had been their brother instead of their client, the tender ties of such a connection, could not have added to the untiring zeal, the laborious and honorable efforts, the exertion of professional talents, the thrilling and soul subduing eloquence with which you have been defended. The jury were literally of your own selection, you was not captious and troublesome in making that selection, but you did it with prudence and dis-

cretion, and not a juror was elected but in accordance with your own feelings. The counsel for the State conducted the cause with benignity and mercy,—but with those talents with which they are distinguished, and that firmness for which as men of virtue and of honor they dare not relax. Your triers, the jurors, have in the most patient and enduring manner submitted to almost unexampled privations and confinement for the period of nearly eight days, until some or one of them at least almost sunk under the pressure of his confinement and his feelings, and by their fixed, solemn and patient attention to every word and suggestion must have given you the assurance that they desired not your blood, but most ardently and fervently desired to find you innocent, if that innocence could be found even in the negative virtue of a ruined and distracted mind; and as to the Court, it may not become me to speak—but I think in view of that bar, before which we shall shortly appear, I can say for my brethren and myself, that we endeavored so to regulate and control the trial, as to secure to you all the advantages that the fair and impartial administration of justice can extend to the deceased.

The final and the fatal result has been recorded, and that record speaks while mind and memory and judicial records last, and will continue to speak you GUILTY, GUILTY, GUILTY—of the murder of Mary W. Hamilton, in manner and form as you stood charged by the Grand Jury of the county.

And who was Mary W. Hamilton? Was she your enemy? Had she done you wrong? Was it her crime that beauty had spread her charms and smiled forth in all the loveliness of virtue, in every feature of her countenance, in the delicacy and elegance of her form, in the chaste and winning manners of her life? And was it because you could not make such a prize, your own, that you resolved in the madness of your heart, she should never live to bless another man and make him happy—as she had made the former and lamented husband of her first and earliest love? But I press the inquiry no further. You say you loved her—and yet mysterious love—you seized the unsuspecting moment of her kind attentions, when sickness feigned, or real, we fear the former, drew her, at your own request,—with kind attentions to your chamber to administer to your comfort, you seized that moment to plant the fatal dagger in her bosom—perpetrated the horrid deed. She lived to say,—“Oh! mother, mother, I screamed, screamed,—you did not come, and Clough has killed me because I would not marry him. I could not mother—I could not you know.—I must die, I must die!” But I forbear—I desire not to extract the dagger from her bosom and plant it in your own. I know your blood will not atone for hers.—But I have said this much, that you may see and feel we have a just abhorrence of your crime, and to banish from your bosom all hope of a favourable interference by the Court, with that department of the government, in which is lodged the pardoning power. Banish then, we intreat you, from your mind every hope and expectation—put out at once the faintest ray of hope that may penetrate into the darkest recesses of your cell, and prepare to meet your God!—The blood you shed was precious blood, but infinitely more precious is that blood which was shed on Calvary; and on that and that alone we commend you to look for pardon and eternal life.

It remains only for us to pronounce the sentence of the Law—and it is considered and adjudged that you be taken from hence to the prison of this county from whence you came, and there be kept in close and secure custody until Friday the 26th day of July next, between the hours of 11 o'clock in the morning and 3 o'clock in the afternoon, you be taken to the place of public execution and there be hanged by the neck until you are dead, and may the Almighty God have mercy on your soul!

NEW YORK, JUNE 13.

ARRIVAL OF THE PRESIDENT.

Agreeably to the information received from the Committee of Councils, which had proceeded to Philadelphia to announce the intended movements of the President, as published in our paper of yesterday, the Chief Magistrate of the United States, with his suite, (consisting of the Hon. Louis M' Lane, Secretary of State, the Hon. Lewis Cass, Secretary of War, and Major Donelson, his private Secretary) reached here yesterday afternoon.

At an early hour, every motion throughout the city gave token of an approaching gala—detached companies of the military were forming at the respective beats—flags were floating in gay and streaming splendor from the mast heads of the shipping, from the windows, and from the roofs of all the hotels and public establishments—the Sunday clad artisan and sleek urchin, with their holiday faces of smiles, were thronging the streets, and wending their way, from every direction, to the Battery and Castle Garden.

By twelve o'clock, the military had assembled on the Battery, which, until four, consisted to receive the streams that poured in, consisting of all denominations of our citizens—the young and the old—the father and the son—the matronly lady and the bonnie lassie, until the entire area was literally stowed with the multitude; while Castle Garden displayed its turrets, crowned with no less dense assemblage. The waters of the bay and harbor, upon all sides, were covered with various descriptions of vessels, from the small and fragile shallop to the tall and stately ship, which, besides the various pendants and ensignia of their own country, were, in many instances, dressed out with the flags of all nations, and with their private signals, until the very air was robed in colors of the most brilliant and variegated hues.

As the hour approached for the arrival of the President, the boats were plying in every direction throughout our capacious bay, and when, at length, the elegant steamboat, the North America, appeared, the most deafening shouts from the assembled multitudes, made the very welkin ring—salutes were fired, and bands of music, with appropriate airs, welcomed the approach of the President to the great Commercial Emporium; on reaching which, he landed at Castle Garden, at four o'clock, and in

a short time after reviewed the troops on the Battery, from whence he was escorted by the Committees, the Military, and Citizens, up Broadway to the City Hall, in front of which he alighted and was conducted into the Governor's room, thence to the gallery in front, where he saluted the immense concourse of his fellow citizens assembled in the Park, anxiously waiting to see him.

He remained at the hall till nearly sunset, receiving visitors, when he was escorted to his quarters at the American Hotel, which had been splendidly fitted up for his reception. In the evening, the theatres and other places of public amusement were brilliantly illuminated, and adorned with appropriate transparencies. The weather was uncommonly fine, and it is variously computed that from one hundred thousand to one hundred and fifty thousand persons participated in the ceremonies of the day.

So far all is jubilee and rejoicing; but we are much pained to state that several accidents occurred, which, though not ending in the death of any person, had well nigh been productive of serious consequences. The President had scarcely stepped upon the Battery as he left Castle Garden, when a section of the bridge connecting it with the shore gave way, and precipitated many into the water, from whence they were however rescued without serious inconvenience. Major Donelson, Governor Cass, Mr. Woodbury, Secretary of the Navy, and Judge Hoffman, were slightly injured. One of the hands on board the cutter Alert, which vessel was cruising about the Bay, while in the act of loading one of the guns, had both his arms shot off, and one of his eyes blown out by an accidental discharge of the piece, from its not being properly sponged. A collection was made for his benefit on board the North America, and five hundred dollars raised for his relief.

We understand the President will remain with us until Monday next.—Mercantile Advocate.

THE JEWS.—The restoration of the Jews to the city of Jerusalem, and to their long lost and lovely country, that 'flowed with ilk and honey,' it is said is about becoming a serious point of consideration among the cabinets of Europe. The complicated state of Turkish affairs, and the dread that Russia may acquire a footing on the Bosphorus and Asia Minor, have led the cabinets of Europe to inquire into the propriety of establishing an independent sovereignty in Palestine, as they have already done in Greece.

A new power raised up in Palestine, a Jewish kingdom erected in Jerusalem, might prove a shock to the designs of the Pacha of Egypt, as well as to the northern Nicholas. It is said, in private letters, that the celebrated capitalist Rothschild, and all the leading Israelites in Europe, have been consulted on the subject, and that the project has been favorably received by many. The plan is to send an army and a fleet to Palestine, under the combined auspices of England and France, and to take possession of Palestine—to negotiate with Egypt, or fight with that power, at all events, to lay the foundation of a new empire in the East, in which the Jews of Europe would occupy the first rank, on condition of their emigrating to that country, and furnishing a part of the funds necessary to defray the expense. Of course, the utmost liberty of opinion in religion would be extended to all classes of the new Judea; for it is a singular fact, that the Jews, in the present age, are the most liberal thinkers in all matters of political and religious belief.—The exclusiveness which prevailed in the 'high and palmy state' of Jerusalem, is completely changed in this age of the world.

What a singular spectacle it would be, to see that curious, original and ancient people again restored to their country, by the Christian cabinets of Europe!—to see the banks of the brook of Kedron, the vale of Jehoshaphat, the river Jordan, the mounts of Carmel and of Lebanon again peopled with the descendants of their ancient possessors!

BOOT & SHOE STORE.

ORIN TRUFANT HAS just returned from New York with a new and fashionable supply of

BOOTS & SHOES

FOR THE SPRING AND SUMMER.

AMONG WHICH ARE Ladies' white Prunello and Satin Slippers, Do. Morocco, Seal skin and Prunello do. Do. Double sole Prunello and Seal skin do. Do. Prunello Walking Shoes, Do. Seal skin Strap Walking do. Gentlemen's fine Calfskin, Seal skin, and Morocco Shoes and Pumps, Do. Calfskin and Morocco Boots, Boy's first quality Shoes and Pumps, Misses and Children Prunello, Morocco, Seal skin and Leather Shoes. N. B.—Ladies and Gentlemen's Boots and Shoes made and repaired at the shortest notice and in the neatest manner, at his old stand on Pollok Street. Newbern, May 3, 1833.

Osborne's Syrup.

PREPARED and for sale by CHARLES S. WARD Druggist and Apothecary, next door to Bell's Hotel.—Newbern, Feb. 15, 1833.

MORISON'S

Vegetable Universal Medicines. THOMAS WATSON, Agent for Newbern and vicinity, has just received an additional supply of MORISON'S celebrated Hygeian Pills. Newbern, March 29, 1833.

NEW Book of Instructions for beginners

on the Piano Forte. Improved and complete Instructions for the Violin and Flute, on principles entirely new, For Sale by T. WATSON. May 31, 1833.

H. W. LATIMER & CO.

Have just received, per schr. Convooy, Blue, White and Green Mosquito Netting, Blue, buff and pink Gingham, Pink blue and buff Gros de Naples, for Ladies Bonnets, Ladies super black H. S. Gloves, Belt Ribbon, Robbinet Laces, Ladies black blond Gauze Handkerchiefs, Ladies white blond Gauze Veils, Blue and white Italian Crape, Ladies Coloured Blond Gauze Handkerchiefs, Straw Trimming, Bonnet Reeds, Arab Anga Cassimere, Blac. Crape Cambler, 80 d. z. Black and coloured Seed Beads. Newbern, June 14, 1833.

GREEN & SUYDAM,



COACH AND GIG MAKERS, NEWBERN,

RESPECTFULLY inform their friends and the public, that they have removed to the New Building opposite to Bell's Hotel, where they have made extensive arrangements for the further prosecution of their business in the Construction, Repairing, Trimming, and Painting of

COACHES, BAROUCHES, GIGS, PANNEL AND PLAIN, LIGHT WAGONS, &c. &c.

Being, as they believe, perfectly acquainted with the making and finishing of these articles, they invite gentlemen wishing to procure them, to apply in person or by letter under the full assurance that their orders will be executed with the utmost despatch and to their entire satisfaction.

They will keep a full supply of all the materials in their line of business, and be prepared at all times to make and finish in the neatest and most approved style, Coaches, Barouches, Gigs, &c. upon very reasonable terms. Nwbern, March 15, 1833.

NEW STORE.

OLIVER S. DEWEY

HAS just returned from New York, and is now opening at his Store, East side of the Old County Wharf, two doors below the corner,

A GENERAL ASSORTMENT OF

DRY GOODS, GROCERIES,

HARDWARE, CROCKERY, Shoes, Hats, Saddles, and Bridles,

Heavy Dundee and Tow Bagging, Blue Rope, Swedes, English, and American Iron, Wagon Boxes, Blacksmiths' Tools, Nails, &c. &c.

—ALSO— NOW LANDING, FROM SCHR. JAMES MOSROF,

A few bbls. first quality family Flour, Boxes and half boxes Raisins, Sacks of Salt, Goshen Butter, Newark Cider, &c. &c.

All of which will be sold low for Cash or Pro duce. November 13th, 1832.

NEWBERN PRICES CURRENT

Table listing various goods and their prices, including BEESWAX, BUTTER, CANDLES, COFFEE, CORDAGE, COTTON, COTTON BAGGING, FLAX, FLOUR, GRAIN, IRON, LARD, LEATHER, LUMBER, MOLASSES, NAILS, NAVAL STORES, OILS, PAINTS, PEASE, PROVISIONS, SALT, SHOT, SPIRITS, and SUGARS.