

tainly worthy of consideration; yet sentence follows upon the hurried and hasty decision of a vital point, without any argument, and during the progress of a nisi prius trial. Under what influences the counsel acted it is hard to know. Corrupt ones ought not to be suspected nor imputed; but can it be doubted that they have failed either in inclination or ability to serve faithfully their own client? If the atmosphere of Boston was so infected with prejudice against Dr. Webster that they had themselves inhaled its venom, they should have retired; but that could scarcely be so, for they affected a confident tone in speaking of his guilt as improbable. If they were restrained by the influences of association, they are unworthy of the high posts they are sometimes called upon to fill. It is hard to imagine to what cause is owing so gross a dereliction of duty. That they knew, or believed him guilty, their friends dare not allege, else these gentlemen have asserted falsehoods on trial: so choose which horn of the dilemma they may, until some explanation comes, they have earned themselves a name, not to be forgotten, as the counsel who defended Dr. Webster.

Contrast this conduct with the professional course of some of the Philadelphia lawyers, in cases less interesting. Charles Langfeldt, a felon who had been but a few days from the Penitentiary, was accused of the murder of a female under circumstances even more shocking than those attending the alleged homicide of Dr. Parkman. A young woman had been murdered in her bed, while her husband was sleeping by her side, in one of the most populous parts of the city, without any cause of provocation whatever. Circumstances pointed unerringly to the murderer, yet he was ably defended by two gentlemen, (Messrs. Richard Vaux and Joseph L. Loughead) and to their eternal credit be it said, that while they used no manner of falsehood, their defence was elevated, impressive and earnest, though the stubbornness of the evidence failed to make it convincing. This wretched man had no wife nor young daughters, educated or otherwise; he was altogether friendless, a very Ishmaelite, with his hand raised against every man, and every man's hand against him; but he found lawyers ready to do their duty even in a case where the universal popular clamor was louder against their client than it was against Professor Webster.

During the last year, a young woman, utterly forlorn and destitute, whose husband was at sea, was accused of murder; a murder by a stab to the heart. The Mayor, (Col. Swift) finding her thus helpless, himself asked the aid of two gentlemen of the bar, (Messrs. Henry M. Phillips and Isaac Hazlehurst), and these two lawyers, although doing but a work of charity, left nothing undone that, in good faith, they thought could be accomplished for the unfortunate woman. I mention these things with pride: and if a new trial could now be afforded to Dr. Webster, he should have the choice of the Philadelphia Bar, with their services willingly rendered. Indeed, in a city where no one seems to have been free from excitement, perhaps it would have been well to send elsewhere for counsel who could, and who would, have exercised a sober and unprejudiced judgment. What the result might have been under such proper defence, it is hard to tell; but it would at least have commanded respect, approval and acquiescence.

What is the legitimate object of punishment? To affect all with fear, and to punish but few (*ut pauci ad paucos sed metus ad omnes perveniat.*) but the good effect of example is lost, if the guilt is not believed to have been properly ascertained. A conviction which follows the regular forms of law

is received by the community as truth, and the proper purpose of the law is attained, by the certain administration of justice; but where the conviction has been obtained without proper means to avert it, it originates defenders and occasions doubts in the minds of many, and makes punishment rather an injury than a benefit to the community.

If Doctor Webster had been convicted after a full, fair and impartial trial—if he had had able and willing counsel—if the presiding Judge had but afforded him that impartiality to which he was entitled, and had not attempted even to deprive him of the shelter of a good character, the community would have acquiesced in the verdict, and his example might have been a warning. But, as it is, his trial will be hereafter regarded as a mockery of justice. Hundreds, thousands, nay, hundreds of thousands, are now discussing the probability of his guilt, while his execution upon the gallows, after a trial such as has no precedent since the days of Jeffreys and Scroggs, will make his memory respected as that of a martyr, and he will be considered a sacrifice to timid counsel and an arbitrary judiciary. The punishment which has not public approval, and which follows a trial that does not possess public confidence, had better be foreborne; its object is generally reversed, and the prejudice the crime would naturally create, is transferred to those who use unjustifiable means for the attainment of their ends. CAUSIDREUS.

For the North American and U. S. Gazette.
The Webster Jury.

Messrs. Editors.—You published on Friday the letter of one of the Jurors to a Boston paper. Allow me to suggest, that though the integrity of the jury is not questioned, the utter error and perversion of the whole proceeding is evident from the letter referred to. The Juror says—"I now come to the closing part of this momentous trial. When the witnesses for the defence had given in their testimony, and the counsel for the prisoner announced the evidence on their part closed, a feeling of pain and anguish must have come over the mind of every juror—What! can no more be said,—no more be done in behalf of the unhappy prisoner! is that the evidence—the only evidence on which we are to base our verdict of *Not Guilty!*" It is plain from this that the jury took their seats at this trial to hear the prisoner affirmatively prove his negative plea of "Not Guilty." What a distortion of all proper, humane, and legal rules—to accuse a man—try him by popular clamor—and convict him, unless he can prove that he is not guilty!

Every one knows, or ought to know, that in a country governed by laws, the issue joined in such cases is not *guilty or innocent*, but *guilty, or not proven guilty*. The Commonwealth charges, and the Commonwealth must prove its charge, or the prisoner must be acquitted; that is, he must be found *not to have been proven guilty*.

A gentleman in this city owns a very spirited picture of a trial before a New England magistrate—of a countryman charged with falling asleep in church—in which the State's attorney is supposed to be insisting that the charge having been made, the prisoner must prove that he was "not guilty." Perhaps the Webster jury got their legal ideas from this reputed argument of the learned prosecuting officer.