

THE PALLADIUM.

WORCESTER:

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Conviction of Webster.

The trial and conviction of Dr Webster has convinced us that we need in this commonwealth a court for the correction of errors. The condemned man *may* be guilty of the crime with which he was charged; we do not say that he is not. But we do say that under other circumstances, it is our belief that such a verdict could not have been obtained. Our neighbor of the *Aegis* tells the whole story when he says:—"The court had already made up the verdict, and that of the jury does but conform to it."

How did "the country" make up its verdict? With all the parts of the tragic event the public mind is so familiar, that even an allusion to them is scarcely necessary. An unparalleled excitement followed the discovery that a citizen of Boston was missing. Fears of murder were expressed. A princely reward was offered for his recovery. Murders, even, of late years have occurred there which produced no shock of the public feeling; but were read of in the morning papers, and well nigh forgotten before night. But here was an occurrence of a different character. A man of wealth was the subject; in a community where wealth is worshipped; and where its accumulation and preservation are the engrossing sentiment of the classes that give to that community its character. At the disappearance of this man of wealth the public mind became intensely excited. The presses of Boston, (with some honorable exceptions,) fanned the flame with their hourly issues of reports, rumors, and developments; some of which were true; but many, false; it seemed of but little moment which, provided the good-natured public would but buy and read. An ever-busy and often officious police was on the alert in every direction; thus giving force and utterance to the predominant idea, that a heinous offense had been perpetrated, and vengeance must be executed upon some body. The mangled remains of a dead man were at length found. Where and in whose keeping? In a medical institution; parts of which are devoted to the study of anatomy, and in which human nature is not very reverently treated; and in the care of a man whose trade it is to procure bodies for dissection. Such a place was not one in which to find much respect for the remains of the dead, or much regard for the rights of the living; especially under the tremendous temptation of a high pecuniary reward.

The discovery was made in this institution—in the apartments occupied by Professor Webster. His arrest and incarceration were followed by a secret inquisition by a coroner and his jury, whose strange verdict went forth as upon the wings of the wind; charging, in lan-

guage the most direct and positive, that these remains found, were those of the murdered man; and that he was murdered by Webster. Under such circumstances it would have been passing strange if "the country" had not "made up the verdict;" and that that verdict would have been too strongly fixed in the public mind to be upset by any testimony but that of the most positive evidence of the prisoner's innocence. We confess to a participation in the sentiment, which seemed to be common to the whole community, that the trial, when it should come, would be but little more than a formality, to be followed by conviction and condemnation.

Under the pressure of this widely-diffused public sentiment, and with a jury taken from the very centre of that sentiment, the prisoner was put upon his trial, within four months of his arrest, and before the strong prejudice against him had mellowed from age. There were mysteries, it is true, in the conduct of the prisoner, and in his relation to the absent Parkman; but they were not the only mysteries in the case. There were explanations needed; but they were such as time might perhaps make clear.

The trial has thrown no light upon the case, no light upon the case. Indeed the feeling is almost universal—so far as our knowledge extends, that the array of facts against the prisoner fell immensely below what was reasonably expected from the imposing significance given to their verdict by the coroner's jury. In all such cases, the responsibility is so great that the impression is an universal one, that all doubt should be removed; and removed too by an adequate amount of direct, unequivocal, and reliable testimony. The decision is to be reached directly, and by no circuitous pathway. It is not to be obtained by *balancing the doubts*, and conforming the decision as the scale may chance to turn. It is a well settled principle of law, that the prisoner is entitled to whatever doubts there may be in the case. Far be it from us to cast the slightest imputation upon the integrity of the jury to whom was assigned the painful duty of trying Dr Webster. As we have before said, they were taken from the very centre of that sentiment, which, we are now told, "had already made up the verdict" before the trial commenced; and of all juries, one thus taken, would be most likely to make their verdict "conform" to that which "the country had already made up." Not corruptly, *not corruptly*; but from the irresistible inclination to measure every fact by a preconceived opinion. Some one of the jury, with less discretion than sensibility to public opinion, has drawn aside the curtain to disclose to the world the secrets of that jury-room. It appears that they recognized their religious obligations in a manner most commendable; but the world would have lost none of its respect for them, if, after retiring with the case, they had proceeded like business men, and examined and considered all its parts—all its doubts, probabilities, mysteries, and especially the law given them by the court, and

which, as well as the facts, should have passed in review. It appears not to have been done. We much doubt, too, the propriety of a "hand vote" in a case where it is so desirable to obtain the unbiased opinion of each individual juror. A hand vote is rarely resorted to, in ordinary transactions, except to save time.

We do not impugn the motives of the jury. There was an array of circumstances against the prisoner; yet there were many also in his favor, *many in his favor*. It is probable enough that the fragments found were the remains of Parkman; but it would be absurd to say that there was any *positive certainty* of it. The question of identity rested solely upon the *mineral teeth*, which the dentist Keep swore were

made by him for Parkman; but it was certainly possible enough that the witness might have been mistaken, and that possibility was greatly augmented by the conflicting testimony of the dentist Morton. But this is not the place nor the occasion for an argument on the case. There was certainly room for doubt whether, after "the country had made up the verdict," it might not be mistaken as to the identity of the remains; whether, if they were the remains of Parkman, that Webster killed him; and, if he did kill him, whether it was by malice aforethought, which would be murder, or by a sudden impulse, which would be manslaughter.

Unimpeached witnesses swore positively to seeing Parkman alive, hours after the time when Webster killed him, if he killed him at all; and the attorney general met their testimony with a proposal, of which any man of common sense, not to say prosecuting officer, should be absolutely ashamed of himself for having made; the proposition to show that a certain "Mr Bliss of Springfield" was about town at that time, and might have been mistaken for Parkman. We know not which most to commend, the astuteness of the attorney general for offering such testimony, in a case of such magnitude; or the passion for notoriety of "Mr Bliss of Springfield," who must have furnished the information to the prosecuting officer! The witnesses testified in a form and manner that seemed to entitle their evidence to marked consideration. Yet it was in effect thrown out of the case by the judge, in his charge to the jury, as by a snap of the fingers.

For the ability, learning, and general impartiality of the supreme court, we entertain the highest respect. But after having seen, as we have seen, the learned chief justice tell a jury the precise number of dollars which it would be proper for them to give in an action for damages, we can not avoid the conviction that judges are fallible like other men; and may err when they intend to observe the sternest line of rectitude.

An individual from a high position in society was on trial. The court might be over-sensitive to the delicacy of its own position; fearful lest the eager eye of the crowd should detect some leaning towards the prisoner; and in bracing itself against any such inclination,